

**CASE**

**NUMBER:**

99 - 284

KY. PUBLIC SERVICE COMMISSION

Index for Case: 1999-00284

AS OF : 02/26/02

Harrison County Water Association, Inc.

Complaints - Service

Regular

OF CHARLES B. LOONEY

IN THE MATTER OF CHARLES B. LOONEY VS HARRISON COUNTY WATER ASSOCIATION

SEQ NBR	Date	Remarks
1	07/02/99	Application.
2	07/02/99	Acknowledgement letter.
3	07/15/99	Order entered ordering Harrison Water to satisfy the complaints.
4	(M) 07/26/99	LETTER CONCERNING WATER TOWERS (DANNY NORTHCUTT HARRISON CO WD)
5	08/11/99	Order entered; rejects Harrison Co.'s answer; response due 9/1
6	(M) 08/30/99	RESPONSE TO COMPLAINT (HARRISON CO WATER ASSOC DOROTHY MAST)
7	09/02/99	Order scheduling 9/24 hearing
8	(M) 10/04/99	EXHIBIT TO BE ADDED REQUESTED AT HEARING ON SEPT 24,99 (DOROTHY MASTIN HARRISON CO WATER)
9	(M) 10/06/99	TRANSCRIPT FILED FOR HEARING ON SEPT 24,99 (VIVIAN LEWIS COURT REPORTER)
10	(M) 03/20/00	RESPONSE TO TELEPHONE CONVERSATION NEWSPAPER ARTICLE (DOROTHY MASTIN)
11	03/29/00	FINAL ORDER; HCWA TO REFRAIN FROM FURTHER SUSPENSIONS/REDUCTIONS IN BULK LOADING
12	(M) 05/30/00	RESPONSE TO ORDER OF MARCH 29,00 (DOROTHY MASTIN)
13	(M) 02/25/02	Dorothy Jo Mastin - Response to complaint

*Dorothy Jo Mastin*

*Attorney at Law*

108 S. Walnut Street  
Cynthiana, Kentucky 41031-1538

Office: 859-235-0000  
Fax: 859-235-0186

February 20, 2002

Hon. Thomas Dorman  
Executive Director  
Commonwealth of Kentucky  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602

RECEIVED

FEB 25 2002

PUBLIC SERVICE  
COMMISSION

Re: Charles B. Looney vs. Harrison County Water Association, Inc.  
Case No. 99-284

Dear Mr. Dorman:

Please find enclosed an original and three copies of a Response to Complaint in the above styled matter. I would appreciate your filing this in the record.

I am also enclosing a copy for my file which I would appreciate your marking "filed" and returning to me in the enclosed stamped, self-addressed envelope at your convenience.

If you have any questions about this matter, please feel free to contact me.

Thank you for your help in this matter.

Sincerely,

  
Dorothy Jo Mastin  
Attorney at Law

DJM:sjw

Enclosures

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 25 2002

PUBLIC SERVICE  
COMMISSION

In the Matter of:

CHARLES B. LOONEY

COMPLAINANT

v.

HARRISON COUNTY WATER ASSOCIATION, INC.

DEFENDANT

CASE NO. 99-284

RESPONSE TO COMPLAINT

\* \* \* \* \*

Comes now the Defendant, Harrison County Water Association, Inc., and in response to Charles B. Looney, Complainant's complaint, and states as follows:

1. On or about November 26, 2001, a storm blew down and destroyed the Renaker Truck Loading Station, broke off all water pipes and disconnected the electric.

2. In the Summer of 2001, the Association installed 25 miles of water mains and hooked up 130 customers located in the service area of the Renaker Truck Loading Station (the station in question). Through this action, almost all of the customers

residing in Renaker Truck Loading Station service area are served at their place of residence.

3. On November 27, 2001, Danny Northcutt, Manager of the Harrison County Water Association, Inc., talked to Mike Newton of the Public Service Commission about the damage and explained that the truck loading station was out of service. He was advised that if the customers in that area started calling about the service, other steps would have to be taken. No further communication was received from any of the customers in this area until February 7, 2002, when Charles B. Looney called with a complaint. This was 73 days after the loading station was destroyed.

During the last month of service, expenses for the Renaker Trucking Loading Station were \$35.46 and the Harrison County Water Association, Inc. sold \$22.99 worth of water, bringing about a loss of \$12.45. The expenses to repair and replace this station would be considerable and anyone who is not currently served in this area is less than 10 miles from a truck loading station. We are enclosing a map showing the distance involved for the Complainant to obtain water and also a map showing the area that is served by the Harrison County Water Association, Inc. (The roads marked in yellow are roads served.

At their December 2001 meeting, the Board of Directors reviewed the usage of this station, noted that the Public Service Commission had been notified and elected, because of the cost involved, not to replace this station.

Therefore, based on the foregoing facts as stated, the Harrison County Water Association, Inc. moves that this Complaint be dismissed.

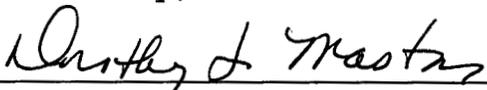
Respectfully submitted,

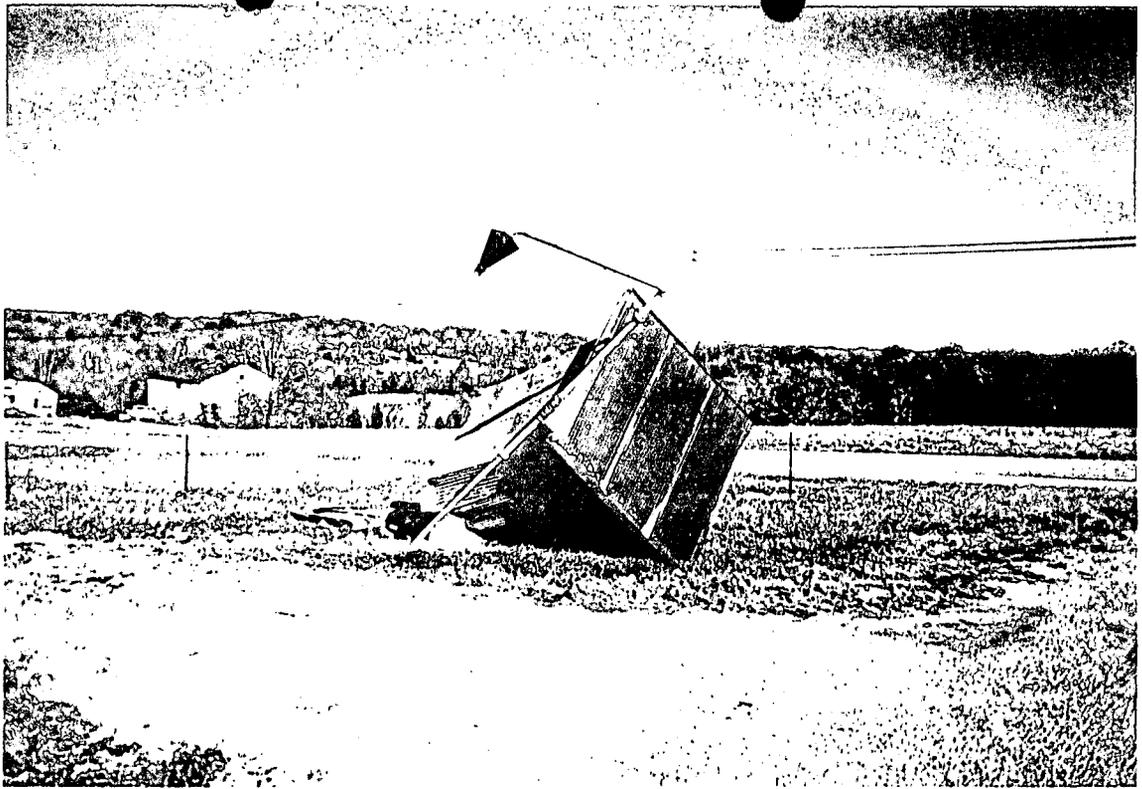
DOROTHY JO MASTIN  
108 South Walnut Street  
Cynthiana, Kentucky 41031  
Telephone: (859) 235-9000

  
\_\_\_\_\_  
ATTORNEY FOR DEFENDANT,  
HARRISON COUNTY WATER ASSOCIATION, INC.

**CERTIFICATION**

I hereby certify that I have this day mailed a true copy of the foregoing Response to Complaint to Hon. Thomas Dorman, Commonwealth of Kentucky, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602, and to the Complainant, Charles B. Looney, 1916 Junction Pike, Berry, Kentucky 41003, this the 20<sup>th</sup> day of February, 2002.

  
\_\_\_\_\_  
Attorney for Defendant,  
Harrison County Water Association, Inc.

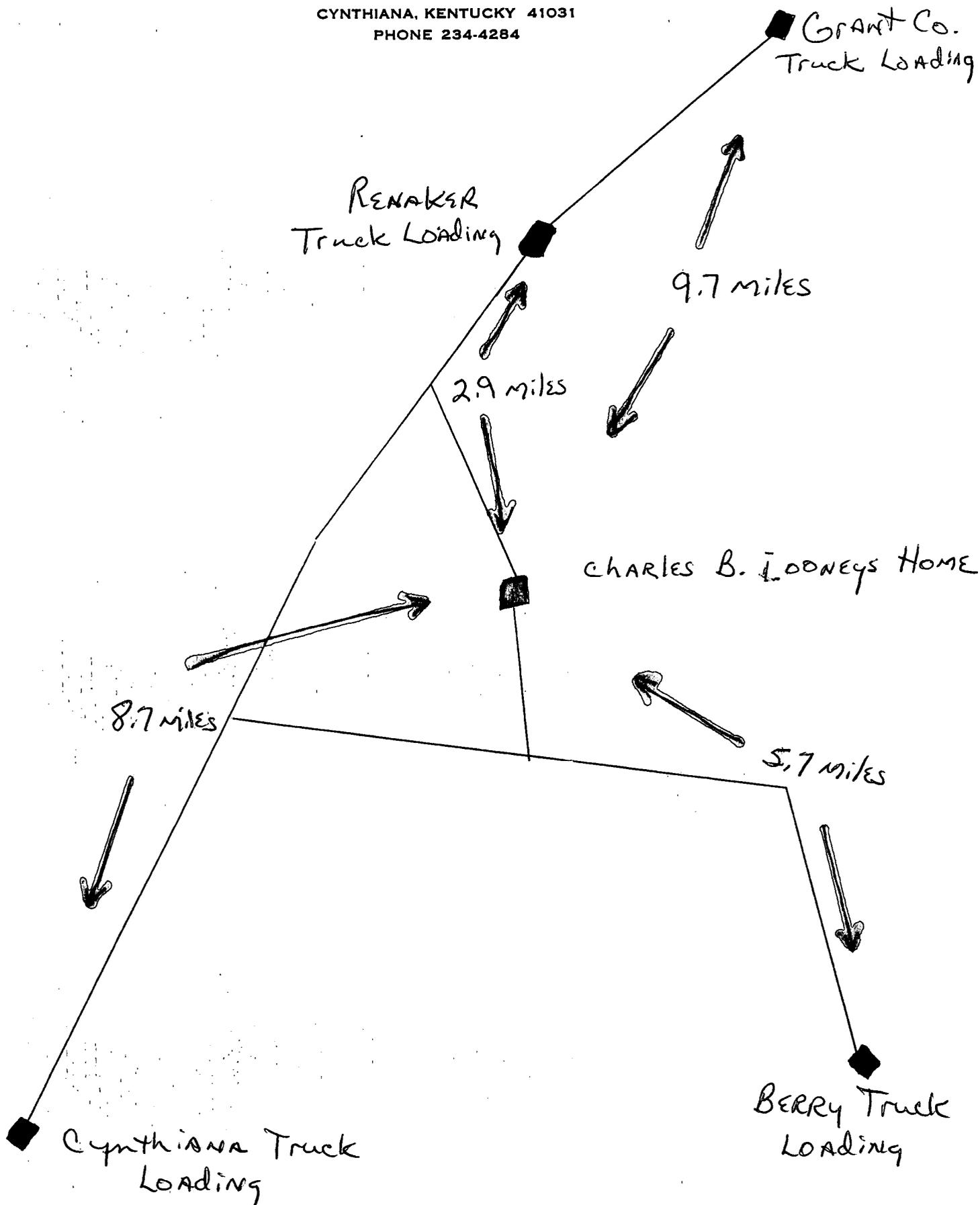


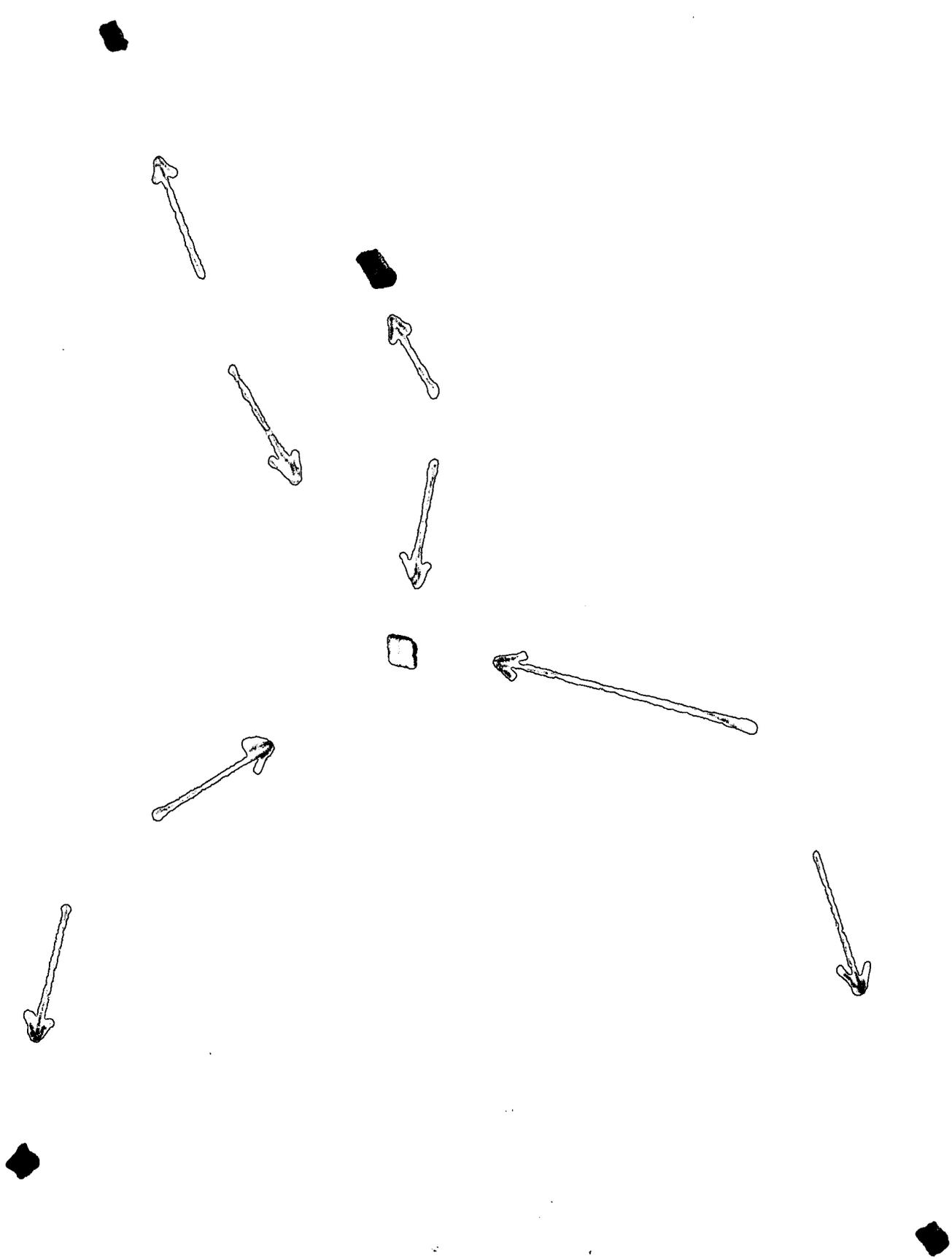
HARRISON COUNTY WATER ASSOCIATION

P. O. BOX 215

CYNTHIANA, KENTUCKY 41031

PHONE 234-4284



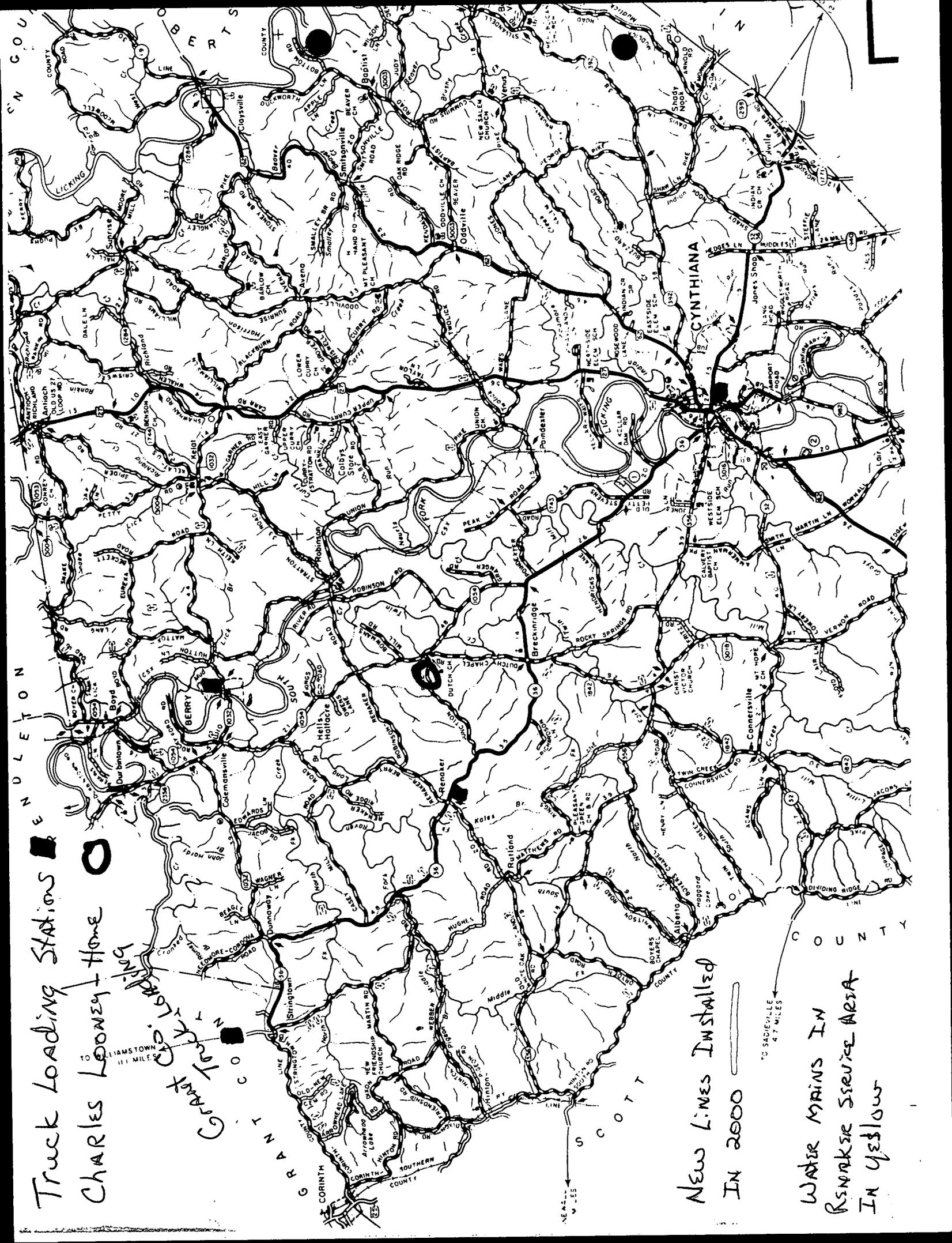


Truck Loading Stations  
CHARLES LOONEY + HOME

Grant Twp. Licking Co.  
TO LIAMSTOWN 111 MILES

New Lines Installed  
IN 2000

Water Mains in  
Runkle Service Area  
in yellow





Dorothy Jo Mastin

Attorney at Law

9 S. Walnut Street  
Cynthiana, Kentucky 41031

Office: 859-235-9000

Fax: 859-235-0186

May 26, 2000

Mr. Martin Huelsmann  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602

RECEIVED  
MAY 30 2000  
PUBLIC SERVICE  
COMMISSION

Re: Charles B. Looney vs. Harrison County Water Association, Inc.  
Case No. 99-284

Dear Mr. Huelsmann:

Please find enclosed a Response I have prepared on behalf of the Harrison County Water Association, Inc. I would appreciate your filing this in the record.

I am also enclosing a copy of the Response for my file which I would appreciate your marking "filed" and returning to me in the enclosed stamped, self-addressed envelope at your convenience.

If you have any questions about this matter, please feel free to contact me.

Thank you for your help in this matter.

Sincerely,

  
Dorothy Jo Mastin  
Attorney at Law

DJM:sjw

Enclosures

cc: Hon. Gerald Wuetcher

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
MAY 3 0 2000  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

CHARLES B. LOONEY )

COMPLAINANT )

v. )

HARRISON COUNTY WATER ASSOCIATION, INC. )

DEFENDANT )

CASE NO. 99-284

RESPONSE TO ORDER DATED MARCH 29, 2000

\* \* \* \* \*

Comes now the Defendant, Harrison County Water Association, Inc. ("HCWA") and in Response to the Public Service Commission's Order outlined paragraphs 1, 2 and 3, and dated March 29, 2000, states as follows:

1. (a) On Page 4 of the Commission's Statement of the Case it states:

"HCWA officials limited the hours of operation of the bulk loading stations to Mondays through Thursdays from 9:00 a.m. to 1:00 p.m."

This statement is incorrect and should have read:

"HCWA officials limited the hours of operation of the bulk loading stations to twenty-four (24) hours per day, four (4)

days per week; Monday through Thursday beginning at 9:00 a.m. on Monday morning and ending at 1:00 p.m. on Thursday evening."

The stations were closed from 1:00 p.m. on Thursday until 9:00 a.m. on Monday (a total of three days) and should not have been perceived as causing a hardship on any customer as HCWA is unaware of any water uses who are employed twenty-four (24) hours per day.

(b) The Commission further states on Page 6:

"Clearly a 90 percent reduction in the hours of operation for the bulk loading stations for a four-month period constitutes a change in the character of service provided."

This was not a 90 percent reduction, only a 45 percent reduction in service which was caused by the severe drought conditions which were brought about by additional users of the bulk loading stations who would normally have caught rainwater to fill their systems.

(c) Harrison County did not seek Commission approval under 807 KAR 5.006, Section 4(2), because they did not consider the bulk station users as customers with whom they had a contract to provide water service, but only as users to whom they provided service on a sporadic basis. But for the drought, most of

these users would have used pond water for their cattle and would have used cistern water for home consumption.

2. It is difficult for HCWA to develop and file with the Commission contingency plans for imposing water restrictions or mandatory conservation measures in the event of a system emergency or water shortage because the Division of Water has always implemented measures of conservation for HCWA to follow. Further, HCWA must follow exactly whatever policy or restrictions are implemented and/or imposed by the City of Cynthiana, as well as the Division of Water.

3. The engineering firm of PEH Engineers has analyzed the situation and identified some of the system deficiencies that contributed to the system pressure problems and improvements necessary to correct these deficiencies. This study directed the immediate erection of a new water tower in the area of low pressure, and a new pumping station.

HCWA has entered an agreement to acquire the land necessary to erect this tower and the land necessary to install this new pumping station to fill said tower (a copy of the two Deeds for this property are attached). Both of these Deeds should

be recorded within the week of June 2, 2000. Once this new tank is in operation it will enable HCWA to provide better flow and pressure to those areas deemed most deficient.

Respectfully submitted,

DOROTHY JO MASTIN  
9 SOUTH WALNUT STREET  
CYNTHIANA, KENTUCKY 41031  
TELEPHONE: (606) 235-9000

*Dorothy Jo Mastin*  
ATTORNEY FOR DEFENDANT

**CERTIFICATION**

I hereby certify that I have this day mailed a true and accurate copy of the foregoing Response to the Complainant, Charles B. Looney, Route 1, Box 513, Berry, Kentucky 41003, and to the Mr. Martin J. Huelsmann, Commonwealth of Kentucky, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602, this the 26<sup>th</sup> day of May, 2000.

*Dorothy Jo Mastin*  
Attorney for Defendant

DEED

THIS DEED OF CONVEYANCE made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between JACK H. OWEN, single, Millersburg Pike, Cynthiana, Kentucky 41031, party of the first part; and HARRISON COUNTY WATER ASSOCIATION, INC., a Kentucky corporation, whose mailing address is P. O. Box 215, Cynthiana, Kentucky 41031, party of the second part, and in the manner hereinafter set out.

W I T N E S S E T H:

That for and in consideration of the sum of \$1.00, the receipt of which is hereby acknowledged, the party of the first part has bargained and sold and does by these presents grant, bargain, sell, convey and confirm unto the party of the second part, its successors and assigns forever, the following described real estate located in Harrison County, Kentucky, and which is more particularly described as follows, to-wit:

All that tract or parcel of land northeast of the intersection of Mason Road and Ky. 356 and approximately 0.8 miles west along Ky. 356 from the city limits of Cynthiana, Harrison County, Kentucky, and being more fully described and bounded as follows, to wit:

BEGINNING at a set pin with cap (All set pins with cap in this description are 1/2 inch diameter, 18 inch long rebar with red survey cap stamped "PLS 3345 ESTES".) at the northeast intersection of the right of ways of Mason Road and Ky. 356, said pin with cap being the southeast corner of the lands now or formerly belonging to Jack H. Owen (Tract 2 of Harrison Co. Deed Book 155, Page 485); thence with the right of way of Mason Road, North (The bearings in this description are based on the plat of "White Oak Estates Unit 3" of record in the Harrison Co. Clerk's Office in Plat Cabinet "3", Slide "72A".) 5\* 36' 00" East, 25.14 feet to a set pin with cap, said pin with cap being South 5\* 36' 00" West, 428.20 feet from a found pin with cap stamped "J. Casey LS #2017" at the southeast corner of Lot 22 of "White Oak Estates Unit 3"; thence severing the land of Owen for two (2) calls:

- 1) South 78\* 20' 05" East, 25.14 feet to a set pin with cap;
- 2) South 5\* 36' 00" West, 25.14 feet to a set pin with cap in the north right of way of Ky. 356; thence with said right of way North 78\* 20' 05" West, 25.14 feet to the BEGINNING and containing 629 square feet as surveyed by Mitchell Kent Estes, Ky. LS #3345, under the employment of PEH Engineers during March, 2000. See Plat recorded in Plat Book \_\_\_\_\_, Sheet \_\_\_\_\_.

BEING part of the same property (Tract 2) as that conveyed Jack H. Owen, single, by George W. Rybolt and Myrna J. Rybolt, his wife, by Deed dated August 31, 1979, and recorded in Deed Book 155, Page 485.

All references are to the records of the Harrison County Court Clerk's Office.

TO HAVE AND TO HOLD the above described property together with all and singular its privileges and appurtenances thereunto belonging unto the party of the second part, and in the manner set



STATE OF KENTUCKY  
SCT.  
COUNTY OF HARRISON

Subscribed and sworn to before me by Jack H. Owen,  
single, Grantor, this the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

STATE OF KENTUCKY  
SCT.  
COUNTY OF HARRISON

Subscribed and sworn to before me by Harrison County  
Water Association, Inc., by and through William R. Toadvine, its  
President, Grantee, this the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

I HEREBY CERTIFY THAT THIS  
INSTRUMENT HAS BEEN DRAFTED  
BY:

*Dorothy Jo Mastin*  
DOROTHY JO MASTIN, ATTORNEY AT LAW  
9 SOUTH WALNUT STREET  
CYNTHIANA, KY 41031  
TELEPHONE: (859) 235-9000

STATE OF KENTUCKY  
COUNTY OF HARRISON

I, Ralph E. Coppage, Clerk of the Harrison County Court do certify that the foregoing Deed was on the \_\_\_\_ day of \_\_\_\_\_, 2000, at \_\_\_\_ o'clock in the \_\_m., lodged in my office certified as above for record, whereupon, the same and this certificate are now duly recorded.

Given under my hand, this the \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
D.C.

DEED

THIS DEED OF CONVEYANCE made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between JAMES W. FURNISH and TERESA W. FURNISH, his wife, Route 6, Box 527, Cynthiana, Kentucky 41031, parties of the first part; and HARRISON COUNTY WATER ASSOCIATION, INC., a Kentucky corporation, whose mailing address is P. O. Box 215, Cynthiana, Kentucky 41031, party of the second part, and in the manner hereinafter set out.

W I T N E S S E T H:

That for and in consideration of the sum of \$1.00, the receipt of which is hereby acknowledged, the parties of the first part have bargained and sold and do by these presents grant, bargain, sell, convey and confirm unto the party of the second part, its successors and assigns forever, the following described real estate located in Harrison County, Kentucky, and which is more particularly described as follows, to-wit:

All that tract or parcel of land approximately 4.7 miles west of Cynthiana and approximately 630 feet south of the intersection of Ky. 356 and Mill Creek Road in Harrison County, Kentucky, and being more fully described and bounded as follows, to wit:

BEGINNING at a set mag nail with washer stamped "ESTES PLS 3345" in the centerline of Mill Creek Road. Said mag nail being South (Bearings in this description are based on the record bearing in Harrison County Deed Book 182, Page 182, and more particularly the tenth call for Tract 1 of said deed, having a call for bearing of North 45\* 30' 00" East, 9.00 chains.) 29\* 41' 47" East, 333.67 feet from the intersection of Ky. 356 and Mill Creek Road. Said mag nail being the common corner to the lands now or formerly owned by James W. and Teresa W. Furnish (Tract 1, Harrison County Deed book 182, Page 182), and the lands now or formerly owned by J. Renaker and Finella C. Casey (Tract No. 4, Harrison County Deed Book 161, Page 765); thence with their common line, South 45\* 30' 00" West, 433.96 feet to a set pin with cap (All set pins with cap in this description are 1/2 inch diameter, 18 inch long rebar with red survey cap stamped "PLS 3345 ESTES"). Said set pin with cap being the TRUE POINT OF BEGINNING; thence continuing with the common line of Furnish and Casey, South 45\* 30' 00" West, 100.00 feet to a set pin with cap; thence leaving said common line and severing the land of Furnish for three (3) calls:

- 1) North 44\* 30' 00" West, 100.00 feet to a set pin with cap;
- 2) North 45\* 30' 00" East, 100.00 feet to set pin with cap;
- 3) South 44\* 30' 00" East, 100.00 feet to the TRUE POINT OF BEGINNING and containing 10,000 square feet as surveyed by Mitchell Kent Estes, Ky. LS #3345, under the employment of PEH Engineers in February, 2000. See Plat recorded in Plat Cabinet \_\_\_\_\_, Sheet \_\_\_\_\_.

BEING part of the same property (Tract 1) as that conveyed James W. Furnish and Teresa W. Furnish, his wife, by Quit-Claim Deed from Farmers Home Administration, United States Department of Agriculture, by Deed dated July 5, 1989, and recorded in Deed Book 182, Page 182.

All references are to the records of the Harrison County Court Clerk's Office.

TO HAVE AND TO HOLD the above described property together with all and singular its privileges and appurtenances thereunto belonging unto the party of the second part, and in the manner set out above, its successors and assigns forever, and with covenants of General Warranty.

IN TESTIMONY WHEREOF, the parties of the first part have hereunto set their hands, this the day and year first above written.

\_\_\_\_\_  
James W. Furnish

\_\_\_\_\_  
Teresa W. Furnish

STATE OF KENTUCKY

SCT.

COUNTY OF HARRISON

The foregoing instrument was acknowledged before me by James W. Furnish and Teresa W. Furnish, his wife, this the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

My commission expires:

\_\_\_\_\_  
Notary Public

(SEAL)

We, James W. Furnish and Teresa W. Furnish, his wife, Grantors, and Harrison County Water Association, Inc., Grantee, do hereby certify, pursuant to KRS Chapter 382, that the above-stated consideration in the amount of \$1.00 is the true, correct and full consideration paid for the property herein conveyed. We further certify our understanding that falsification of the stated consideration or sale price of the property is a Class D felony,

subject to one to five years imprisonment and fines up to \$10,000.00.

\_\_\_\_\_  
James W. Furnish, Grantor

\_\_\_\_\_  
Teresa W. Furnish, Grantor

HARRISON COUNTY WATER ASSOCIATION,  
INC., Grantee

By: \_\_\_\_\_  
William R. Toadvine

Its: President

STATE OF KENTUCKY  
SCT.  
COUNTY OF HARRISON

Subscribed and sworn to before me by James W. Furnish and  
Teresa W. Furnish, his wife, Grantors, this the \_\_\_\_ day of  
\_\_\_\_\_, 2000.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

STATE OF KENTUCKY  
SCT.  
COUNTY OF HARRISON

Subscribed and sworn to before me by Harrison County  
Water Association, Inc., by and through William R. Toadvine, its  
President, Grantee, this the \_\_\_\_ day of \_\_\_\_\_, 2000.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

I HEREBY CERTIFY THAT THIS  
INSTRUMENT HAS BEEN DRAFTED  
BY:

*Dorothy Jo Martin*

DOROTHY JO MARTIN, ATTORNEY AT LAW  
9 SOUTH WALNUT STREET  
CYNTHIANA, KY 41031  
TELEPHONE: (859) 235-9000

STATE OF KENTUCKY  
COUNTY OF HARRISON

I, Ralph E. Coppage, Clerk of the Harrison County Court  
do certify that the foregoing Deed was on the \_\_\_\_ day of  
\_\_\_\_\_, 2000, at \_\_\_\_ o'clock in the \_\_m., lodged in my office  
certified as above for record, whereupon, the same and this  
certificate are now duly recorded.

Given under my hand, this the \_\_\_\_ day of \_\_\_\_\_,  
2000.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
D.C.



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-284  
HARRISON COUNTY WATER ASSOCIATION, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on March 29, 2000.

See attached parties of record.

*Stephanie J. Bell*

Secretary of the Commission

SB/sa  
Enclosure

William R. Toadvine  
President  
Harrison County Water  
Association, Inc.  
P. O. Box 215  
Cynthiana, KY. 41031

Charles B. Looney  
Route 1, Box 513  
Berry, KY. 41003

Mr. Danny D. Northcutt  
Manager  
Harrison County Water Association  
P.O. Box 215  
U.S. 27 South  
Cynthiana, KY. 41031

Dorothy Jo Mastin,  
Counsel for Harrison County Water  
9 South Walnut Street  
Cynthiana, KY. 41031

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES B. LOONEY	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-284
	)	
HARRISON COUNTY WATER ASSOCIATION, INC.	)	
	)	
DEFENDANT	)	

O R D E R

Charles B. Looney has brought a complaint against Harrison County Water Association ("HCWA") in which he alleges that the utility's decision to suspend water service to its bulk loading stations in June 1999 and to subsequently restore service at those stations at reduced hours of operation is unlawful and unreasonable. Finding that HCWA's actions were unreasonably discriminatory to bulk loading station customers and its lack of contingency planning constituted an unreasonable practice, we direct HCWA to refrain from such suspensions of service in the future, to develop contingency plans for water shortages, and to correct the system deficiencies that led to the suspension of service.

STATEMENT OF THE CASE

HCWA is a non-profit corporation formed for the purpose of furnishing water services to the general public. It owns and operates water distribution facilities that provide water to approximately 4,076 customers in Harrison, Bourbon, Scott and

Nicholas counties.<sup>1</sup> HCWA does not operate any water treatment or production facilities but purchases its total water requirements from the city of Cynthiana, Kentucky ("Cynthiana").

In addition to its sales to residential and commercial structures, HCWA operates four bulk loading stations located throughout its general service area.<sup>2</sup> These stations provide bulk quantities of water to members of the general public. They primarily serve persons or entities that own properties that are not connected to a water distribution system and need a source of potable water. HCWA estimates that between 200 and 300 persons receive their water supply through these stations.<sup>3</sup> Sales from these stations accounted for approximately 3.1 percent of HCWA's sales in 1998.<sup>4</sup>

Charles B. Looney resides in Berry, Kentucky, a small town in Harrison County, Kentucky which is about nine miles northwest of Cynthiana, Kentucky. Looney's residence is not located near a public water supplier. Looney instead relies upon a cistern and the bulk water loading stations for his water supply. HCWA operates a bulk loading station in Berry<sup>5</sup> that serves as Looney's primary source of water.

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<sup>1</sup> Annual Report of Harrison County Water Association, Inc. to the Public Service Commission for the Year Ended December 31, 1998 ("Annual Report") at 29. This number excludes HCWA's bulk loading stations that HCWA reported as customers.

<sup>2</sup> According to its Annual Report, HCWA operates five bulk loading stations. HCWA's manager testified that the water association currently operates only four loading stations. Transcript at 26.

<sup>3</sup> Id. at 32.

<sup>4</sup> Annual Report at 29.

<sup>5</sup> HCWA's loading stations are in the following locations in Harrison County: Berry, Buena Vista, Renaker, and Sunrise.

On Friday June 11, 1999, HCWA closed its bulk water loading stations in an effort to reduce demand upon its water distribution system and to stabilize water system pressure. HCWA experienced significant increases in customer demand as a result of drought conditions that began in May 1999.<sup>6</sup> This was especially true for HCWA's bulk loading stations.<sup>7</sup> On the two weekends just prior to the closure of the bulk loading stations, demand from these stations had significantly reduced the water levels of HCWA's water storage tanks. HCWA officials feared that continued or increased demand over the weekend period would prevent HCWA from maintaining adequate water levels in its water storage tanks.

Simply put, during weekend periods water was being withdrawn from HCWA's water storage tanks at a faster rate than it was being pumped into those tanks. As water storage levels fell and high demand continued, system pressure fell.<sup>8</sup> HCWA officials became increasingly concerned that system pressure would fall below minimum acceptable levels and require the issuance of a boiled water advisory. Closing the bulk loading stations, HCWA officials reasoned, would reduce demand and allow HCWA's storage tanks to refill.

On June 21, 1999, after system pressure had stabilized and the water storage tanks had been refilled, HCWA reopened its bulk loading stations but at reduced hours of operation. Finding that the peak demand for water occurred during weekend periods,

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<sup>6</sup> See Letter from Dorothy Jo Mastin, HCWA counsel, to Helen C. Helton, Executive Director, Kentucky Public Service Commission (Sept. 29, 1999).

<sup>7</sup> See Transcript, Defendant Exhibit 1.

<sup>8</sup> HCWA's water supply did not play a role in these pressure problems. HCWA's water supplier, Cynthiana, did not place any restrictions upon the volume of water that HCWA could withdraw from its system.

HCWA officials limited the hours of operation of the bulk loading stations to Mondays through Thursdays from 9:00 a.m. to 1:00 p.m. They reasoned that permitting longer hours of operation would result in unacceptable system pressure levels. Prior to June 11, 1999, the bulk loading stations were open continuously. The reduced hours of operation remained in effect until October 21, 1999 when HCWA resumed normal hours of operation.<sup>9</sup>

Aside from the closure of the loading stations, HCWA took little action to reduce water consumption. It made public appeals for voluntary water conservation, but did not impose any restrictions upon its customers' usage. It made no request to Harrison County Fiscal Court for the imposition by county ordinance of water use restrictions. Similarly, the city of Cynthiana did not impose use restrictions on its customers.

The closure and subsequent reduced hours of operation caused significant inconvenience to bulk loading station customers such as Looney. While the HCWA's loading stations were closed, the only available sources of water for these customers were bulk loading stations operated by the cities of Cynthiana and Falmouth, Kentucky. These customers, therefore, had to travel longer distances to purchase their water. Moreover, since the two municipal bulk load stations were now the only stations in the area, these customers experienced long waiting lines to purchase water.

The reopening of the HCWA bulk loading stations did not alleviate these inconveniences. Customers continued to experience long lines at the municipal stations and at the HCWA stations. Many remained unable to use HCWA's bulk loading stations because the reduced hours of operation coincided with their hours of employment.

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<sup>9</sup> See Letter from Dorothy Jo Mastin, HCWA counsel, to Gerald Wuetcher, Staff Attorney, Kentucky Public Service Commission (Mar. 16, 2000).

## DISCUSSION

Looney's Complaint raises the following issue: Did HCWA act in an unlawful or unreasonable manner by reducing and suspending water service to customers who are served through its bulk loading stations while taking no action to restrict the usage of its remaining customers?<sup>10</sup>

HCWA's suspension of water service to bulk loading station customers is not unreasonable or unlawful per se. KRS 278.280(2) requires that a utility furnish the commodity or render the service set forth in its rate schedules according to the Commission's regulations "on proper demand and tender of rates." Administrative Regulation 807 KAR 5:066, Sections 4(1),<sup>11</sup> permits a utility to make emergency disruptions of service.

Based upon our review of the record, we find sufficient evidence to support HCWA's contention that the suspension of service was in response to an emergency. When bulk water service was suspended on June 11, 1999, HCWA had a reasonable

---

<sup>10</sup> The Commission finds that HCWA's resumption of normal service hours for its bulk loading stations does not render Looney's Complaint moot. HCWA takes the position that the reduction and suspension of bulk water service is appropriate under water shortage conditions. As such conditions are likely to recur, this litigation is likely to recur. It thus falls within an exception to the mootness doctrine and is subject to adjudication. See Courier-Journal and Louisville Times Co. v. Meigs, Ky., 649 S.W.2d 724, 725 (1983) ("An exception to the mootness doctrine is a situation in which the litigation is likely to be repeated.").

<sup>11</sup> Emergency interruptions. Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public. If an emergency interruption of service affects service to any public fire protection device, the utility shall immediately notify the fire chief or other public official responsible for fire protection.

belief that, if reductions in demand were not made, water levels within its storage tanks would drop to dangerously low levels and a boiled water advisory would be required. HCWA's decision to temporarily suspend bulk hauling service, therefore, was permissible under Administrative Regulation 807 KAR 5:066, Section 4(1).

We find, however, that HCWA acted improperly when, after the emergency had ended and system pressure had stabilized, it significantly reduced the hours of operation of its bulk loading stations without Commission approval. Administrative Regulation 807 KAR 5:006, Section 4(2), provides that "[p]rior to making any substantial change in the character of the service furnished" a utility must obtain Commission approval. Clearly a 90 percent reduction in the hours of operation for the bulk loading stations for a four-month period constitutes a change in the character of service provided. HCWA should have requested Commission approval for reduced hours of service. In failing to seek such approval, it failed to comply with Administrative Regulation 807 KAR 5:006, Section 4(2).

By suspending and subsequently reducing the operations of the bulk loading stations but placing no restrictions upon the water consumption of HCWA's other customers, moreover, HCWA subjected its bulk loading station customers to "unreasonable prejudice or disadvantage" in disregard of KRS 278.170(1).<sup>12</sup> Although

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<sup>12</sup> No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

all HCWA customer classes created the large customer demand for water, HCWA took no steps to reduce customer consumption or restrict the usage of any customer class other than bulk loading station customers. It made no attempt to impose restrictions on non-bulk loading station customers or to request that local governments implement usage restrictions. As a result, the entire burden for alleviating the system pressure problem was placed upon the shoulders of HCWA's bulk loading station customers even though other HCWA customers shared responsibility.

HCWA argues that its actions were not unreasonably discriminatory since bulk loading station customers are not "customers" of the utility. HCWA reasons that, as a bulk loading station user does not have a contract with HCWA, he or she is not a "customer" and should be given lower priority than others to whom HCWA provides water. HCWA states that the suspension of service was in the best interest of the community and was consistent with HCWA's corporate charter, which requires it to "provide potable water to the customers who have contracts with the Association."<sup>13</sup>

This argument conflicts with the Commission's regulations. Administrative Regulation 807 KAR 5:006, Section 1(2), defines a "customer" as "any person, firm, corporation or body politic applying for or receiving service from any utility." Administrative Regulation 807 KAR 5:066, Section 1(1), states that a "customer" includes "a person who purchases water from a utility's water loading station." The absence of a contract, therefore, is not relevant.

The Commission further finds that HCWA's failure to develop contingency plans contributed to its decision to require bulk loading station users to bear the brunt of the

---

<sup>13</sup> HCWA's Response to Complaint at 2.

emergency measures. HCWA's manager testified that the utility does not have a water shortage response plan or any written contingency measures for dealing with a water emergency. There is no evidence that HCWA has a plan for imposing water restrictions or requesting local governments to implement such restrictions.

The lack of such planning is troubling. This Commission has long urged water utilities to develop water curtailment plans and to plan for possible contingencies. We have strongly suggested that water utilities adopt the Model Water Shortage Response Plan that the Natural Resources and Environmental Protection Cabinet has developed.<sup>14</sup> Given the demands placed upon the Commonwealth's water supply and the possibility of unexpected emergencies, water utilities must be prepared to deal promptly with water shortage incidents. Any water utility that fails to develop a contingency plan for dealing with such shortages engages in an unreasonable practice. Its methods of providing service must be considered inadequate and insufficient.

Accordingly, the Commission finds that HCWA should develop a contingency plan to deal with potential water shortages. Such plan should include procedures for the curtailment of water service and the imposition of water usage restrictions. It should also be designed to identify excessive use of water and include appropriate measures to identify and react to those customers using water in excess of stated levels. Any measures to physically restrict the supply of water should be applied in a nondiscriminatory manner that is consistent with the health and welfare of HCWA's system.

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<sup>14</sup> See, e.g., Letter from Public Service Commission to All Jurisdictional Water Utilities (June 29, 1988) (discussing the need for Water Shortage Response Plans).

We further find that HCWA should undertake a study to identify the system deficiencies that contributed to the situation at bar and the improvements necessary to correct these deficiencies. After completion of this study, HCWA should submit a copy of the study to the Commission and state its timetable for implementing the study's recommendations.

### SUMMARY

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. HCWA's bulk loading stations serve 200 to 300 customers.
2. Approximately 3.1 percent of HCWA's total water sales in 1998 were derived from HCWA's bulk loading stations.
3. On June 11, 1999, HCWA suspended water service to bulk loading stations.
4. On June 21, 1999, HCWA resumed water service to its bulk loading stations but at significantly reduced hours. Prior to June 11, 1999, HCWA operated the bulk loading stations 24 hours per day. From June 21, 1999 to October 21, 1999, HCWA operated these stations only four days per week and for only four hours each day.
5. HCWA's suspension of service and subsequent resumption of service at reduced hours of operation was based upon a reasonable belief that continued operation of the bulk loading stations without restriction would impair system water pressure and require the issuance of a boiled water advisory.
6. Administrative Regulation 807 KAR 5:066, Sections 4(1), permitted HCWA's emergency interruption of service to bulk loading station customers.

7. HCWA's decision to operate its bulk loading stations at reduced hours after emergency conditions ceased was a "substantial change in the character of service provided" to bulk loading station customers and required Commission approval. 807 KAR 5:006, Section 4(2).

8. HCWA did not obtain Commission approval for the change in the nature of its bulk loading station service and thus failed to comply with Administrative Regulation 807 KAR 5:006, Section 4(2).

9. Aside from appeals for voluntary conservation, HCWA made no effort to restrict the consumption of its remaining customers or to obtain local government mandated conservation.

10. To the extent that HCWA required customers receiving water service through its bulk loading stations to assume the burden of reduced or suspended service to alleviate water pressure problems imposed by increased customer demand, HCWA unreasonably discriminated against those customers and constituted an unreasonable practice.

11. HCWA has not developed a water shortage response plan or other contingency measures to impose water restrictions or mandatory conservation measures upon its customers.

12. HCWA's existing plans for addressing water pressure problems resulting from increased consumer demand are inadequate and insufficient.

IT IS THEREFORE ORDERED that:

1. HCWA shall refrain from further suspensions or reductions in bulk loading station service without prior Commission approval unless an emergency situation exists. When an emergency situation exists, HCWA shall notify the Commission of the emergency and request its approval no later than 96 hours after the suspension or reduction of service.

2. Within 60 days of the date of this Order, HCWA shall develop and file with the Commission contingency plans for imposing water restrictions or mandatory conservation measures in the event of a system emergency or water shortage.

3. Within 60 days of the date of this Order, HCWA shall undertake a study to identify the system deficiencies that contributed to the system pressure problems that it experienced in June 1999 and to identify the improvements necessary to correct these deficiencies and shall file with the Commission a copy of this study and its plans for correcting the identified system deficiencies.

Done at Frankfort, Kentucky, this 29th day of March, 2000.

By the Commission

ATTEST:

  
Executive Director

Dorothy Jo Mastin

Attorney at Law

9 S. Walnut Street  
Cynthiana, Kentucky 41031

Office: 606-235-9000  
Fax: 606-235-0186

March 16, 2000

FACSIMILE

(502) 564-7279

RECEIVED

MAR 20 2000

GENERAL COUNSEL

Hon. Gerald Wuetcher  
Attorney at Law  
Public Service Commission  
311 Sower Avenue  
P. O. Box 615  
Frankfort, Kentucky 40602

RECEIVED  
MAR 20 2000  
PUBLIC SERVICE  
COMMISSION

Re: In the Matter Of: Charles B. Looney vs. Harrison County  
Water Association, Inc.  
Case No. 99-284

Dear Mr. Wuetcher:

In response to our telephone conversation of today's date and your request, I am enclosing a copy of a newspaper article which was in The Cynthiana Democrat on Thursday, October 21, 1999, showing that the hours of operation for the county water truck loading stations were back to 24 hours a day, 7 days per week, beginning the week of October 21, 1999.

If you need any other information, please feel free to contact me.

Sincerely,



Dorothy Jo Mastin  
Attorney at Law

DJM:sjw

Enclosure

# Cynthiana Democrat

Viewpoint	4
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Farming	13
Living	B1
Records	B2-B5

**TWO SECTIONS-  
26 PAGES**

**Plus TV Times**

**THURSDAY, OCTOBER 21, 1999**

6KY

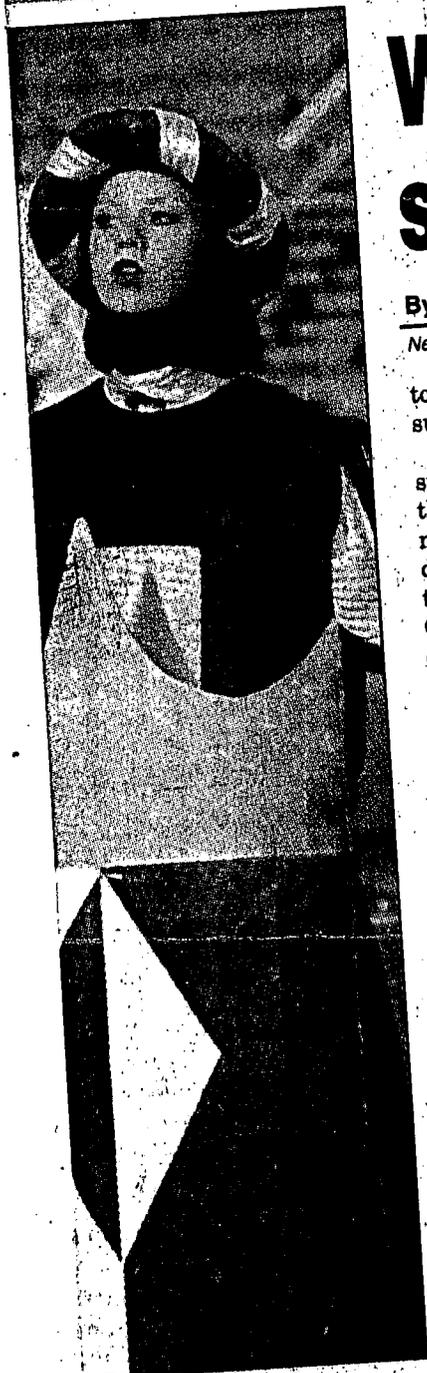


Photo by KATHY GRAYSON  
Auctions of Harrison County  
West of Champlons.  
Murfreesboro was the last of

## Water truck loading stations open 24/7

By LISA HURST

News writer

Last week's rainfall has helped to lessen restrictions on water consumption.

County water truck loading stations, which have been closed three days a week since June, are now open 24 hours a day, seven days a week once again, according to Danny Northcutt, Harrison County Water Association manager.

The stations were closed on weekends to help the water association's towers refill from weekend consumption, which was up due to livestock and garden watering. Northcutt said the combination of a couple of inches of rainfall, lower temperatures and waning gardens has dropped water association contracted customers' consumption to below 800,000 gallons per day.

The rain has also made it pos-

sible for the City of Cynthiana to stop pumping water from the Main Licking River at Devil's Backbone, Mayor Virgie Wells said. This is also a relief to the city's payroll fund, since the pump had to be manned 24 hours a day by two public works employees the entire time it was running.

"We're comfortable in using our water for a while," Wells said.

She added, however, that the Kentucky Division of Water has not lifted the phase III water advisory issued several weeks ago which bans outdoor watering. Wells said she is allowing residents who need to seed new grass to water only the newly seeded area.

County Judge/Executive Dean Peak warns residents that the Division of Forestry has not lifted the no burning ban. Penalties range from \$50 to \$500.

## Penn, Poplar get four new homes

By LISA HURST

News writer

A large area at the corner of Penn and Poplar streets, which flooded and condemned

rodents and snakes on the property. McIlvain said the city had a hard time acquiring those parcels because of difficulties getting the titles cleared. An additional parcel

Dorothy Jo Mastin  
Attorney at Law  
9 S. Walnut Street  
Cynthiana, Kentucky 41031

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6425 MAILED FROM CYNTHIANA KY 41031  
UNITED STATES POSTAGE  
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MAR 16 00

Hon. Gerald Wuetcher  
Attorney at Law  
Public Service Commission  
311 Sower Avenue  
P. O. Box 615  
Frankfort, Kentucky 40602

40602-0615



9 S. Walnut Street  
Cynthiana, Kentucky 41031

Dorothy Jo Mastin  
Attorney at Law

Office: 606-235-9000  
Fax: 606-235-0186

September 29, 1999

RECEIVED

OCT 04 1999

PUBLIC SERVICE  
COMMISSION

Ms. Helen C. Helton  
Executive Director  
Public Service Commission  
730 Schenkel Avenue  
P. O. Box 615  
Frankfort, Kentucky 40602

Re: Harrison County Water Association, Inc.  
Hearing No.: 99-284  
Date of Hearing: Friday, September 24, 1999, 10:00 a.m.  
Hearing Officer: Paul Shapiro

Dear Ms. Helton:

I am enclosing an exhibit to be added in the above styled case that was requested by the Public Service Commission in our hearing on Friday, September 24, 1999, which shows the average daily water purchases in 1998 and 1999 for each month.

If there is anything further that you require, please advise.

Sincerely,



Dorothy Jo Mastin  
Attorney at Law

DJM:sjw

Enclosure

Harrison County Water Association

PO BOX 215  
CYNTHIANA KENTUCKY 41031  
PHONE 236-4284

1998

Gals. PER MONTH

Gals. PER DAY

JAN:	23,894,500	770,661
Feb.	24,770,110	884,647
MARCH	18,452,720	595,249
April	25,175,820	839,194
MAY	21,838,620	704,472
JUNE	22,606,900	753,563
July	28,531,290	920,364
Aug.	24,742,980	798,160
Sept.	30,025,940	1,000,865
Oct.	21,801,550	703,376
Nov.	20,461,908	682,063
Dec.	24,151,870	779,093

1999

JAN.	28,594,180	922,392
Feb.	20,420,120	729,290
MARCH	22,058,480	711,264
April	22,144,030	738,134
MAY	26,657,430	859,917
JUNE	32,255,500	1,075,183
July	32,193,380	1,038,496
Aug.	27,314,080	881,699

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES B. LOONEY

COMPLAINANT

v.

HARRISON COUNTY WATER ASSOCIATION, INC.

DEFENDANT

CASE NO. 99-284

RECEIVED  
AUG 30 1999  
PUBLIC SERVICE  
COMMISSION

RESPONSE TO COMPLAINT

\* \* \* \* \*

Comes now the Respondent, Harrison County Water Association, Inc., through counsel, and in Response to the Complaint filed by the Complainant on June 17, 1999, and responds as follows:

1. The Harrison County Water Associations, Inc., closed all water distribution centers on June 11, 1999, because of the severe drought in Harrison County and the lack of water in the water shed area from which Harrison County Water Association's water supply is drawn.

2. These truck loading stations were closed for seven days.

3. This action was taken in order that the water towers could be refilled to prevent a boiled water advisory being issued. After the towers had refilled, the Harrison County Water Association's Board of Directors voted to reopen the stations from Monday at 9:00 a.m. each week and close them on Thursday at 1:00 p.m. if water levels permitted. The truck loading stations have continued to operate in this matter since June 11, 1999. This procedure has allowed the water situation to be stabilized as the remainder of the customers are county customers who have water users agreements with our Water Association and consumes the majority of the water in the towers on the weekends.

4. This step was taken because we felt it was in the best interest of our customers and the community at large, and it is a part of our charter to provide potable water to the customers who have contracts with our Association.

5. Further, the customers of the truck loading stations can fill their cisterns from the City of Cynthiana (or from Falmouth, Kentucky), where the water towers were not closed, as they did in the past before truck loading stations were operable.

Based on the foregoing, the Defendant asks that this Complaint be dismissed with prejudice.

Respectfully submitted,

DOROTHY JO MASTIN  
9 SOUTH WALNUT STREET  
CYNTHIANA, KENTUCKY 41031  
TELEPHONE: (606) 235-9000

*Dorothy Jo Mastin*  
ATTORNEY FOR DEFENDANT

**CERTIFICATION**

I hereby certify that I have this day mailed a true and accurate copy of the foregoing Response to Copmlaint to the Complainant, Charles B. Looney, Route 1, Box 513, Berry, Kentucky 41003, and to the Ms. Helen C. Helton, Commonwealth of Kentucky, Public Service Commission, 730 Schenkel Lane, P. O. Box 215, Frankfort, Kentucky 40602, this the 26th day of August, 1999.

*Dorothy Jo Mastin*  
Attorney for Defendant



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 11, 1999

William R. Toadvine  
President  
Harrison County Water  
Association, Inc.  
P. O. Box 215  
Cynthiana, KY. 41031

Charles B. Looney  
Route 1, Box 513  
Berry, KY. 41003

Mr. Danny D. Northcutt  
Manager  
Harrison County Water Association  
P.O. Box 215  
U.S. 27 South  
Cynthiana, KY. 41031

RE: Case No. 99-284

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

  
Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES B. LOONEY	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-284
	)	
HARRISON COUNTY WATER ASSOCIATION, INC.	)	
	)	
DEFENDANT	)	

ORDER

Charles B. Looney ("Complainant") has brought a formal complaint against Harrison County Water Association, Inc. ("Harrison County"). On July 23, 1999, Harrison County responded to this complaint by letter. Danny D. Northcutt, Harrison County's manager, submitted the letter on behalf of Harrison County. Mr. Northcutt is not a licensed attorney.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice. SCR 2.100. The practice of law is

any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.

Kentucky Supreme Court Rule 3.020. It includes, as Kentucky's highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.

As to its own proceedings, this Commission has adopted a similar position and has required that those representing the interests of others before us be licensed attorneys. In a previous case, this Commission ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.

Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (June 15, 1981) at 2.

Commission regulations concerning formal complaints incorporate, at least in part, these sentiments. Administrative Regulation 807 KAR 5:001, Section 12(2), states in part:

Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address.

The regulation requires that a corporation or other organization, from the outset of a complaint proceeding, be represented by an attorney.

Based on the above, the Commission finds that Harrison County's Answer fails to comply with Kentucky law and should not be accepted for filing. We further find that Harrison County should be permitted to file an Answer that complies with Administrative Regulation 807 KAR 5:001 within 20 days of the date of this Order. Harrison County's failure to submit a timely answer that complies with this administrative regulation will be considered as an admission of all allegations contained in the complaint and will constitute grounds for the entry of an Order granting the Complainant's requested relief.

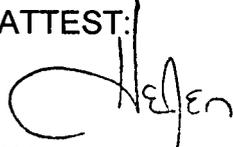
IT IS THEREFORE ORDERED that:

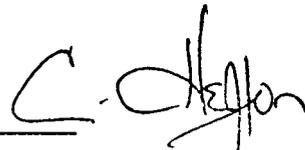
1. Harrison County's Answer is rejected.
2. Within 20 days of the date of this Order, Harrison County shall submit an Answer that complies with Administrative Regulation 807 KAR 5:001. Failure to submit a timely answer that complies with this administrative regulation will be considered as an admission of all allegations contained in the complaint and will constitute grounds for the entry of an Order granting the Complainant's requested relief.

Done at Frankfort, Kentucky, this 11th day of August, 1999.

By the Commission

ATTEST:

  
Executive Director



# Harrison County Water Association

P.O. Box 215  
U.S. 27 South  
Cynthiana, Kentucky 41031

Phone 606-234-4284

July 23, 1999

Helen C. Helton  
Commonwealth of Kentucky  
Public Service Commission  
730 Schenkel Lane  
Post Office Box 215  
Frankfort, Ky 40602

RECEIVED

JUL 26 1999

PUBLIC SERVICE  
COMMISSION

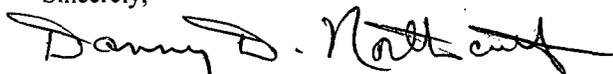
Re: Case No. 99-284 Charles B. Looney

Dear Ms. Helton:

Due to all of our water towers staying low and people on our water lines being close to being out of water or on a boil water advisory because of dry weather conditions, the Harrison County Water Association directors closed all truck loading stations for seven days. This let our water system stabilize and refilled all water towers. At this point H.C.W.A. directors agreed to reopen stations on Mondays at 9:00 A.M. and closed them on Thursday at 1:00 P.M. if tank levels permit. This will let our water towers have 24 hours to refill before the weekend high demand on our system starts. This is only temporary, due to no rain. This is working very well for our system. There is other truck loading stations open in this area, they just have to drive a little further to get there. These people have cisterns to fill with truck loads of water. The people on our water lines have no cisterns or other water supply to fall back on.

If you have any questions, please call

Sincerely,



Danny D. Northcutt  
Manager  
Harrison County Water Association

DDN/dsl

P.O. Box 215  
CYNTHIANA, KY 41031



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

July 15, 1999

William R. Toadvine  
President  
Harrison County Water  
Association, Inc.  
P. O. Box 215  
Cynthiana, KY. 41031

Charles B. Looney  
Rd. 1# Box 513  
Berry, KY. 41003

RE: Case No. 99-284

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,  
*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

SB/lnh  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES B. LOONEY	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-284
	)	
HARRISON COUNTY WATER	)	
ASSOCIATION	)	
	)	
DEFENDANT	)	

ORDER TO SATISFY OR ANSWER

Harrison County Water Association ("Harrison Water") is hereby notified that it has been named as defendant in a formal complaint filed on July 2, 1999, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, Harrison Water is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 15th day of July, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 2, 1999

William R. Toadvine  
President  
Harrison County Water  
Association, Inc.  
P. O. Box 215  
Cynthiana, KY. 41031

Charles B. Looney  
Route 1, Box 513  
Berry, KY. 41003

Mr. Danny D. Northcutt  
Manager  
Harrison County Water Association  
P.O. Box 215  
U.S. 27 South  
Cynthiana, KY. 41031

RE: Case No. 99-284

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in black ink that reads "Stephanie J. Bell".

Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure



80

RECEIVED

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

JUL 02 1999

PUBLIC SERVICE COMMISSION

In the matter of:

Charles B. Looney )  
 (Your Full Name) )  
 COMPLAINANT )  
 VS. )  
Harrison County Water Association )  
 (Name of Utility) )  
 DEFENDANT )

CASE 99-284

COMPLAINT

The complaint of Charles B. Looney respectfully shows:  
(Your Full Name)

(a) Charles B. Looney  
(Your Full Name)  
Rd. 1# Box 513  
Berry, Ky. 41003  
(Your Address)

(b) Harrison County Water Association  
(Name of Utility)  
Paris Pike, U. S. #27 S. Cynthiana, Ky. 41031  
(Address of Utility)

(c) That: on June 11, 1999 at 12:00 noon, the Harrison  
(Describe here, attaching additional sheets if necessary,

County Water Association did turn off all water  
the specific act, fully and clearly, or facts that are the reason

distribution center in Harrison County, except the  
and basis for the complaint.)

station in Cynthiana and one on the Grant-Harrison  
County line and we were told to go to Falmouth. Now

Formal Complaint

Charles B. Looney vs. Harrison County Water Association

Page 2 of 2

that station in Falmouth is closed. For twenty years I and  
other customers have used this water and paid for it. At the  
present time if we would try to get water from one of the two  
remaining outlets it would take hours of our time waiting in  
line to pump the water. We were told that we were not customers  
of the Harrison County Water Association and that they could cut  
those stations off any time they wanted to do so.

Wherefore, complainant asks THAT ALL  
(Specifically state the relief desired.)

water stations in Harrison County, Kentucky, be opened  
for service to all Harrison County residents.

Dated at Berry, Kentucky, this 17th day  
(Your City)

of June, 19 99  
(Month)

Charles B. Looney  
(Your Signature)

Rd. 1#, Box 513, Berry Ky. 41003  
(Name and address ~~if any~~, if any)



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

July 2, 1999

William R. Toadvine  
President  
Harrison County Water  
Association, Inc.  
P. O. Box 215  
Cynthiana, KY. 41031

Charles B. Looney  
Rd. 1# Box 513  
Berry, KY. 41003

RE: Case No. 99-284  
HARRISON COUNTY WATER ASSOCIATION, INC.  
(Complaints - Service) OF CHARLES B. LOONEY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received July 2, 1999 and has been assigned Case No. 99-284. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

*Stephanie J. Bell*

Stephanie Bell  
Secretary of the Commission

SB/jc

By

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUL 02 1999

PUBLIC SERVICE  
COMMISSION

In the matter of:

Charles B. Looney )  
 (Your Full Name) )  
 COMPLAINANT )  
 VS. )  
Harrison County Water Association )  
 (Name of Utility) )  
 DEFENDANT )

CASE  
99-284

COMPLAINT

The complaint of Charles B. Looney respectfully shows:  
(Your Full Name)

(a) Charles B. Looney  
(Your Full Name)  
Rd. 1# Box 513  
Berry, Ky. 41003  
(Your Address)

(b) Harrison County Water Association  
(Name of Utility)  
Paris Pike, U. S. #27 S. Cynthiana, Ky. 41031  
(Address of Utility)

(c) That: on June 11, 1999 at 12:00 noon, the Harrison  
(Describe here, attaching additional sheets if necessary,

County Water Association did turn off all water  
the specific act, fully and clearly, or facts that are the reason  
distribution center in Harrison County, except the  
and basis for the complaint.)  
station in Cynthiana and one on the Grant-Harrison  
County line and we were told to go to Falmouth. Now

Continued on Next Page

Formal Complaint

Charles B. Looney vs. Harrison County Water Association

Page 2 of 2

that station in Falmouth is closed. For twenty years I and  
other customers have used this water and paid for it. At the  
present time if we would try to get water from one of the two  
remaining outlets it would take hours of our time waiting in  
line to pump the water. We were told that we were not customers  
of the Harrison County Water Association and that they could cut  
those stations off any time they wanted to do so.

Wherefore, complainant asks THAT ALL  
(Specifically state the relief desired.)

water stations in Harrison County, Kentucky, be opened  
for service to all Harrison County residents.

Dated at Berry, Kentucky, this 17th day  
(Your City)

of June, 1999  
(Month)

Charles B. Looney  
(Your Signature)

Rd. 1#, Box 513, Berry Ky. 41003  
(Name and address ~~of complainant~~, if any)

# ana rat

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ONE SECTION-  
24 PAGES

Plus TV Times

THURSDAY, JUNE 17, 1999

## County's towers refilled

# Water association to discuss reopening truck loading stations

By LISA HURST

News writer

It is still uncertain when truck water loading stations in the county will be reopened after closing at noon this past Friday.

According to Danny Northcutt, manager of the Harrison County Water Association, the board will meet this week to discuss when the county's five stations will be reopened.

"We're not doing this to punish people," Northcutt said.

The stations were closed on Friday because customers were using water faster than it could be pumped into eight water towers throughout the county, Northcutt said. The decision to close the stations had nothing to do with the City of Cynthiana's supply of water, he added. One truck loading station can pull 1,000 gallons of water from a water tower. It takes the water association an hour and a half to refill that 1,000 gallons.

"They were shut down to keep everyone in water," Northcutt said.

He said the consumption of water went down 100,000 gallons after the stations were turned off.

"As of right now, our system is stable," Northcutt said. "That's what we were looking for was to stabilize the system so it could work the way it was designed to work."

Clayton Moore, a water hauler for 22 years, said shutting off the stations was "dirty."

He recalled the desperate need for water haulers after the 1997 flood, when Cynthiana's water treatment plant was flooded and Harrison County had no water. Truckers hauled potable water in,

which was distributed in bottles.

"If it hadn't been for truckers, this town would have been in bad shape," Moore said.

Although Moore has not received any calls to haul water since Friday, he said he will have to charge \$3 or \$4 more for each load to compensate for the additional gasoline needed to haul from Cynthiana's water treatment plant, the only truck loading station which is open.

"I can't drive 12 miles for nothing," he said.

Moore said last week, in anticipation of the stations closing, he hauled nine loads a day for five days. He said in the 22 years he has hauled water, the stations have only been closed one other time—in 1983, during another drought.

He said if he receives a call for water, he will travel to Cynthiana.

"I'm going to take care of my customers no matter where I have to haul it from,"

Moore said.

The Cynthiana of Cynthiana's water supply is still described as adequate by water treatment plant superintendent William Hubbard. However, Hubbard is still asking residents to voluntarily conserve water until some significant rain is received.

Water is still trickling over Terry Dam, which holds the city's water supply pool. The pump on the Main Licking was started last Wednesday for about two hours and pumped 300,000 gallons into the city's draw pool. Hubbard said this was to keep the pump primed if needed.

"As of right now, our system is stable. That's what we were looking for was to stabilize the system so it could work the way it was designed to work."

—DANNY NORTHCUTT



Elephant, Cynthiana, Ky"

• 1933 "He Played A Sax-Had No B.O.-But His Whiskers Scratched-So She Let Him Go-Burma Shave.

The Cynthiana-Harrison County Museum, 13 S. Walnut, is open on Fridays and Saturdays, 1 a.m.-5 p.m. Come spend a summer morning or afternoon at the museum. We especially encourage all those in town for alumni activities to visit the museum. 234-1053, 234-5835, 234-3147, or during museum hours, 234-7179.

If you are 55 or older and looking for a part time job, perhaps you would qualify to be a Green Thumb worker at the museum. Candidates must meet certain financial guidelines. If you are interested, please call 234-6541.

## WAY BACK WHEN

### 10 years ago—June 22, 1989

Births announced this week include: Matthew Garnett Rees, Dustin Lynn Wagoner and Ashley Nicole Wolfe.

Citizens confronted the board of education with grievances concerning Dr. Wade Roby, superintendent, school finances, and board procedure.

Jennifer Bedford received a blue ribbon and placed second in the state for her home environment demonstration presented at the 1989 4-H State Communications Day activity held on June 7 at the University of Kentucky.

Dave Jasper replaced Benny Bivens as the sports director on WCYN, and is also a disc jockey.

Barry Switzer resigns as Oklahoma's head football coach.

Muffin, Brenda Franklin's pet cat warned her of a fire in her bathroom which allowed her to act quickly to save her home.

The Harrison County Extension Office scheduled a bus trip to Lancaster County, Penn., and Washington, D.C. to visit farms and congressmen.

### 25 years ago—June 20, 1974

UK veterinarian, Donald LaBore says cattle should be tested before admitting to herd due to brucellosis, a chronic bacterial infection.

Charles Milton Knight has received a four-year AFJROTC scholarship.

Cynthiana Babe Ruth baseball team beat Scott County 3-1 in the first game of a doubleheader.

The new Covenant Presbyterian Church at 504 East Bridge Street will hold its first worship service in the sanctuary on June 30 at 11 a.m. Rev. Eurie Hayes Smith III of Belzoni, Miss. will deliver the sermon.

People of Berry was awarded a Day and farmers.

1999 would like to thank the community for its overwhelming support and kindness.

Thanks to the businesses, corporations, organizations, and the citizens of Cynthiana.

Graduation and Project Graduation were very successful. With the help of the community, the senior class earned \$13,000.

The whole night was wonderful and we will always have good memories.

Thanks to all of the donations, students were able to take home prizes such as computers, microwaves, refrigerators, camping supplies, fishing gear, jewelry, and even cash. Every student took home something.

So again, the senior class of 1999 says thank you for helping to make our high school graduation a wonderful one.

Marilou Brunker  
Cynthiana

## Water stations

To the editor:

I am writing this letter because the people in the county are being treated unfairly in the water crisis that we are supposed to be having. The water association has shut down the water stations within Harrison County saying it is to conserve on water consumption. A lot of county residents rely on the water stations for their drinking and bathing water.

After working 14 hours a day, I have to drive 30 miles round trip just to pick up 400 gallons of water so my family can survive.

What upsets me is that they can shut our water supply off, but I can go to any car wash in town and wash my car.

I guess that having clean cars is more important than the people who live in the county having access to water.

The way I see it, that's poor management.

Daniel Faulkner  
Berry, Ky.

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

Phone 294-874

- Ellis E Gentry Route #3 Box 266 Berry Ky.
- Mark Gentry Route 3 Berry, Ky
- Mike Gentry Route 3 Berry Ky
- Dana Nichol Route 3 Berry Ky
- Melvin Taylor R 3 Berry Ky
- Jason L. News Route 3 Box 267 Berry Ky
- Dottie Evans Route 3 Berry Ky
- R. Jan Taylor Route 3 Berry, Ky 41003
- Tena Gentry R. 3 Box 268 Berry Ky 41003
- Debbie Spicer Rt 3 Box 269 Berry Ky 41003
- Donald Spicer Rt 3 Box 269 Berry Ky 41003
- Donnie Spicer Jr " " " " " " " "
- Joseph Loy Jackson Rt 3 Box 273 Berry Ky 41003
- Roseanne - Uskin Rt 3 Box 272 Berry Ky 41003
- Jason Nichol Rt 3 Berry Ky 41003
- Phyllis Nichols R#3 Box 261 Berry Ky 41003
- Frankie Gentry R#3 Box 275 Berry Ky 41003
- Shirley Cummins R#3 Box 275 Berry Ky 41003.9737
- Effie Chambers

James O. Chambers 294-3504

- James Thomas Evans R#3 Box 402 Berry Ky 41003
- Orville Egan Jr. Rt 3 Berry 41003
- Uckie Simpson Rt 3 Berry, Ky 41003
- Carolyn New Rt 3 Berry, Ky 41003
- Orl D New Rt 3 Berry, Ky 41003
- James Bulliam Rt 3 Berry, Ky 41003
- Norman Spicer RR 3 Box 262 Berry Ky 41003
- Augustine Goff RR 3 Box 258 " " "
- Edna Feedback - R.R-3 Berry, Ky.
- George Feedback R.R-3 Berry Ky.
- Richard Foster R-R-3 Berry Ky.
- Waneta F. Gentry R # 3 Berry, Ky 41003
- Norman Gentry R # 3 Berry, Ky 41003

(OVER)

Jane Spin R 1 Berry Ky 41003  
Mr Harold Cummins Rt 3 Box 248 Berry Ky 41003  
Mrs Carolyn Cummins Rt 3 Box 248 Berry Ky 41003  
Kenneth H Gentry R#3 Berry Ky 41003 606-234-4462  
Greg Courtney Rt 1 Berry Ky 41003 234-5022  
Pam Courtney Rt 1 Box 248 Berry Ky 41003 234-5022

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

<u>Name</u>	<u>Complete Address</u>
Ellis Gentry	R# 3. Box 266 Berry Ky 41003
Mr. & Mrs Jerry Wiloughby	Route 3 Box 191 Berry Ky 41003
Beth Taylor	R# 3 Box 271 Berry Ky 41003
Jimmy Huffman	Berry Ky Box 178 41003
Charles Huffman	Berry Box 178 41003
Scott Hill	Berry Box 8 41003
Walden Bidamore	Rt. 3 Box 196A Berry Ky 41003
Roby Milner	Berry Ky PO Box 7 41003
Donna Cox	Berry, Ky. 41003
Jason Cox	
Michael Brown	Rt 1 Box 492 Berry Ky 41003
James Nichols	Rt. Box 455 Berry Ky 41003
Marshall Nichols	Rt 1 Box 531 Berry Ky 41003
Elmer Reed	Rt 2 Box 150 Berry Ky 41003
Lise Dodu	Rt 2 Box 180 Berry Ky. 41003
Rand Dodu	
Ricky D. Johnson	R 3 Box 221 Berry Ky. 41003.
Jr. Manley	PO Box 155 Berry Ky. 41003

JUNE 17, 1999

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

Name

Complete Address

Melvin Taylor Jr.	RR 3 # 267 Berry Ky. 41003
Paul W. Ford	RR 2 Berry Ky
Sue Gibson	P.O. Box 98, Berry Ky
Walter Hankley	RR 6 box 43 Linton Ky
Billy R. Sadler Jr.	Box 115 Blake Lane
Janya A. Sadler	Rt # 1 Box 130 Berry, Ky 41003
Mary Jane Jones	R # 2 Box 177 Berry, Ky 41003

JUNE 17, 1999

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

Ronald White Republica Pike Cyp. Ky. 41031

Peggy Highlands Junction Rd

Donald E Adams R+1 BERRY KY 41003

Sue Highworth R1 Box 509 Berry Ky 41003

William D Taylor R#3 Box 271 BERRY Ky 41003

Frances Looney R#1 Berry, Ky. 41003

JUNE 17, 1999

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

Mr & Mrs Kevin Ibence  
Dora Kille

Jayce Wilk  
Dorrell M Fynor

Jane Fynor  
W Donald Fynor

Kennell Taban

Mark & Brenda Howe

Penny Wyatt

Cal Edditt

Sally J Wagoner

John Wagoner

Mary L. Frankl

Jimmy Williams

~~\_\_\_\_\_~~  
Katy Jones

Tim Lesak

JUNE 17, 1999

We the undersigned residents of Harrison County, request the water distribution centers in Harrison County, Ky. be re-opened for all residents to use.

Andy Baum  
Jim Wilson  
Madelin Wilson  
Dawn Barnes

ANTHONY BARNES.

Jayne C. Jett  
Kimberly Doolin

Skilley King  
Buck Parley  
Larry Woodhuff  
Lorey Woodhuff  
Mark Wagoner

Michelle Day  
Rug Wagner  
Sue Wood  
Wanda Hicks  
Wayne Eason  
David R. Per

Art Rasmussen

Cheryl Ogden  
Richard Lowson  
Vivian Richardson  
David J. Clem

Ron Guy

Dana Guy  
Marshall Williams

Joanie Respler  
Jerry Respler  
Sandra Fryman

Chak H. Clifton  
Dinah Miller  
Mitchell Fogler

Darcy Pinner  
Eddie Lambert  
Jeryl Whitson

Donald Pabey

Carie O'Keefe  
Gary Emery  
Barbara Biddle  
Robert Biddle  
Sharon Highland  
Vicki Maxwell

Betty Armstrong  
Linda White  
Glennda Oakley  
Gylvia Doolin  
David W. King  
Mike Marsh

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

CASE NO. 99-284

**FILED**

OCT 06 1999

PUBLIC SERVICE  
COMMISSION

RE: HARRISON COUNTY WATER ASSOCIATION, INC.

Pursuant to notice duly given, the above-styled matter came to be heard September 24, 1999, at 10:00 a.m. in the Hearing Room of the Kentucky Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601; The Honorable Paul Shapiro presiding.

C O P Y

VIVIAN A. LEWIS  
COURT REPORTER - PUBLIC STENOGRAPHER  
101 COUNTRY LANE  
FRANKFORT, KENTUCKY 40601  
(502) 695-1373

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION  
CASE NO. 99-284

RE: HARRISON COUNTY WATER ASSOCIATION, INC.

APPEARANCES:

Hon. Paul Shapiro  
Hearing Officer  
PUBLIC SERVICE COMMISSION

Hon. Gerald Wuetcher  
Legal Counsel  
PUBLIC SERVICE COMMISSION

Hon. Dorothy Jo Mastin  
9 South Walnut Street  
Cynthiana, Kentucky 41031  
Legal Counsel  
HARRISON COUNTY WATER ASSOCIATION

Mr. Charles B. Looney  
Route 1, Box 502  
Berry, Kentucky  
Representing himself

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1 HEARING OFFICER SHAPIRO:

2 This is a hearing before the Kentucky Public  
3 Service Commission in the matter of Charles B.  
4 Looney versus the Harrison County Water  
5 Association, Inc., Case Number 99-284. Mr.  
6 Looney, are you present--

7 MR. LOONEY:

8 Yes, sir, I'm right here.

9 HEARING OFFICER SHAPIRO:

10 --and ready proceed. And is Harrison County Water  
11 Association present and ready to proceed?

12 MS. MASTIN:

13 Yes, Your Honor.

14 HEARING OFFICER SHAPIRO:

15 Let me get appearances first. Mr. Looney, will  
16 you give us your full name and address?

17 MR. LOONEY:

18 Charles B. Looney, Route 1, Berry, Kentucky, Box  
19 502.

20 HEARING OFFICER SHAPIRO:

21 What city was that?

22 MR. LOONEY:

23 Berry, B-e-r-r-y.

24

1 HEARING OFFICER SHAPIRO:

2 Okay. And for Harrison County Water Association?

3 MS. MASTIN:

4 I'm Dorothy Jo Mastin, my address is 9 South  
5 Walnut Street, Cynthiana, Kentucky 41031.

6 HEARING OFFICER SHAPIRO:

7 And for Commission Staff.

8 MR. WUETCHER:

9 For Commission Staff, Gerald Wuetcher.

10 COURT REPORTER:

11 Would you spell your last name please?

12 MS. MASTIN:

13 M-a-s-t-i-n.

14 HEARING OFFICER SHAPIRO:

15 Ms. Mastin, have you had an opportunity to review  
16 the complaint filed by Mr. Looney?

17 MS. MASTIN:

18 Yes, Your Honor.

19 HEARING OFFICER SHAPIRO:

20 Mr. Looney, you are not represented by counsel; is  
21 that right?

22 MR. LOONEY:

23 No.

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HEARING OFFICER SHAPIRO:

Let me briefly explain the procedures that we will be following here this morning. The hearing will be conducted in much the same manner as a trial is conducted. In other words, you will be given an opportunity to present evidence in support of the matters that you allege in your Complaint. After you have presented that evidence, you can do that yourself or you can call witnesses on your behalf. If you do it yourself, then you will just simply make a statement, the statement would be under oath, then you will be subject to cross-examination by Ms. Mastin and by Mr. Wuetcher. If you call witnesses then you would ask the witnesses questions, they would respond and, then, they would also be subject to cross-examination by Ms. Mastin and Mr. Wuetcher. After you have presented all of your evidence, then the Water Association will be given an opportunity to present their evidence. I assume that will be through the testimony of witnesses that Ms. Mastin will call. After each witness has testified in response to questions that Ms. Mastin asked, then you will be given an opportunity to question them

1 as well as Mr. Wuetcher. Unlike a trial, however,  
2 we will not have opening statements where you can  
3 explain your position to the Commission or what  
4 you intend to prove. That is because an opening  
5 statement is generally designed to acquaint a jury  
6 with what the case is about. The record, however,  
7 contains that information and I have read the  
8 record, so I am fairly familiar with what the  
9 complaint is. So, we will then--what we will do  
10 is we will immediately go into the evidentiary  
11 portion of the hearing unless there are some  
12 preliminary matters that need to be taken up; are  
13 there? Do you have any questions about the  
14 procedure today?

15 MR. LOONEY:

16 No, I don't think so. If I do, I'll--

17 HEARING OFFICER SHAPIRO:

18 We'll help you get through it, okay. Ms. Mastin,  
19 do you have anything?

20 MS. MASTIN:

21 No, sir, Your Honor.

22 HEARING OFFICER SHAPIRO:

23 Okay. Mr. Looney, do you wish to make a--call any  
24 witnesses or do you wish to testify on your own





1 days. Now, if you take a man's water away from  
2 him for that length of time, he has to drive to  
3 Cynthiana with a 300 gallon tank on his truck or  
4 he can drive to Falmouth for the same amount of  
5 water and come back home, and the people in the  
6 town or in the country that is on the water line,  
7 hey, they are out watering their garden, car  
8 washes are going, and we can't understand why the  
9 people that is on the water line has all these  
10 privileges. All we want was water because we have  
11 a cistern, my understanding is because we have a  
12 cistern we should have water. If it don't rain,  
13 we don't have water. All we want is water and  
14 those water stations has been around for years and  
15 years and years. Because where I live, I live  
16 eight miles out of town, three miles from me is a  
17 water station where you can go get your water,  
18 load it on your truck, you pay for it. These  
19 people say we are not water customers. Those  
20 water stations have been there before a third of  
21 the houses out in that area was built and we can't  
22 understand why we can't get water when they run  
23 the water lines to Bourbon County, Scott County,  
24 Nicholas County, all the counties around us. Hey,

1 they get water, we can't get water because they  
2 shut us down. We have to--it causes us a burden  
3 to go get it. Some people work seven days a--you  
4 know, work from seven to seven or six to six  
5 because if you check the record you will see that  
6 3M works 12 hours a day. Now, you get home at  
7 seven o'clock at night, hey, you don't have much  
8 time to go get your water if you have got to go to  
9 Cynthiana or Falmouth. What the whole situation  
10 is, that I see, they say if we take a 1,000  
11 gallons, load it on our truck, it takes  
12 approximately an hour or longer to pump that back  
13 into those tanks or ever what they have there for  
14 water towers, that is what they called them. Hey,  
15 now, if they keep putting houses on the water line  
16 they are not having no water in the tanks, no  
17 pressure. And we can't understand that. If you  
18 add 200 more houses on to the tanks that the--the  
19 water towers that they have now and they say it  
20 takes an hour to an hour and a half, what is in  
21 the papers, in the newspapers, it takes an hour to  
22 an hour and a half, there is something bad wrong  
23 somewhere, but I don't understand it and the  
24 people that is on the--that is not on the water

1 line don't understand it because the federal  
2 government gives them the money. And they are  
3 just saying, hey, you all don't need it. You  
4 know, we will build--we will put some water lines  
5 over in Nicholas County, they have got what they  
6 call the loop, went out of the county, runs around  
7 these houses, but they can't run a water line up  
8 these little roads for people because they say,  
9 well, it's not economical. In other words, they  
10 are trying to make money instead of trying to  
11 serve the people. That's my whole opinion of the  
12 thing and that's a lot of other people's opinion.  
13 Because if you look you see the swimming pools  
14 full of people swimming in their swimming pools.  
15 If there is a shortage of water why do they have  
16 their car washes going, the swimming pools going,  
17 golf courses getting water? Out in front of Wal-  
18 Mart and those places out there, how come those  
19 sprinklers is running around? I don't know if  
20 they are doing it right now, but they were doing  
21 it back a couple of months ago. We don't  
22 understand it. I guess we just, you know, are  
23 common people, we don't have all this management  
24 or something I'd say they have. But you know if

1           you pay \$8.50 for a 1,000 gallons or water and you  
2           have to haul it, you're going to conserve that  
3           water, and you see your neighbor out there that is  
4           on the water line standing out there watering his  
5           garden and yours is burned up, we don't understand  
6           that. And that is about all I have to say. But  
7           those water stations has been there for years and  
8           years and years because I've lived out there for  
9           20 years and I think the federal government helped  
10          put those in, you know. They got money from the  
11          federal government for the Water Association or  
12          any of the Cynthiana City Water, I can't  
13          understand how they can cut us off and say we are  
14          not a customer. We pay every time we get water  
15          and we have been doing it for years. That's about  
16          all I have to say for right now.

17       HEARING OFFICER SHAPIRO:

18               Mr. Looney, what county do you live in?

19       A        Harrison County.

20       HEARING OFFICER SHAPIRO:

21               Ms. Mastin?

22       MS. MASTIN:

23               Thank you. May I have just a minute, Your Honor?

24

1 HEARING OFFICER SHAPIRO:

2 Mr. Looney, you will have to sit there, she will  
3 have some questions for you.

4 A Okay, I sure will.

5 CROSS EXAMINATION

6 BY MS. MASTIN:

7 Q Mr. Looney, where did you get your water before  
8 the truck loading station was built?

9 A There was a truck loading station, as far as  
10 I know, was there when I built my house.

11 Q Do you have a cistern?

12 A Yes, I have a cistern.

13 Q Do you collect water from your gutters and--

14 A Yes, ma'am, I do.

15 Q Now, the water stations, the water truck loading  
16 stations are back on now; isn't that correct?

17 A Yes, three and a half days a week.

18 Q They are on Monday through Thursday; correct?

19 A From Monday at nine o'clock 'til Thursday at  
20 one.

21 Q And you can haul water those days?

22 A Yes, ma'am.

23 Q And you have been doing so; isn't that  
24 correct?

1 A Yes, ma'am, those three days, three and a  
2 half days.

3 Q Are you also aware that the City of Cynthiana  
4 controls the car washes, the sprinklers, et  
5 cetera, in the city of Cynthiana and not the  
6 Harrison County Water Association?

7 A That's right.

8 Q So, we have no control over how water is used  
9 in Cynthiana; do you understand that?

10 A I understand that.

11 Q Do you also understand that we are in a  
12 severe drought and when water--when the truck  
13 loading stations dump a 1,000 gallons of  
14 water it causes the pressure in our towers to  
15 decrease?

16 A Yes, ma'am.

17 MS. MASTIN:

18 I don't have any more questions, Your  
19 Honor.

20 HEARING OFFICER SHAPIRO:

21 Mr. Wuetcher?

22 MR. WUETCHER:

23 Just a few.

24

1 CROSS EXAMINATION

2 BY MR. WUETCHER:

3 Q Mr. Looney, how far do you live from Falmouth?

4 A From my house to Falmouth?

5 Q Yes, sir.

6 A If I go to Cynthiana to Falmouth?

7 Q Yes, sir.

8 A I'd say it is--I live eight miles out in the  
9 country and I'd say it is about 30 miles from  
10 Cynthiana to Falmouth.

11 Q So, it is about 30 miles for you to travel?

12 A One way, that would be 60 miles or more.

13 Q Okay. 60 miles, and as far as travel time,  
14 how long is that?

15 A I'd say it would take an hour or longer.

16 Q You say you live about eight miles from  
17 Cynthiana?

18 A Yes.

19 Q Okay. And how far is the travel time to  
20 Cynthiana?

21 A Well, 10 or 15 minutes.

22 Q How long have you--you stated you built your  
23 house about 20 years ago?

24 A Well, I bought, it was partially built and

1           then I bought it from a fellow and finished  
2           building it.

3       Q     Okay. So, you have lived in that location  
4           for the last 20 years?

5       A     Twenty-two years.

6       Q     Since 1977?

7       A     That's right.

8       Q     And what is your occupation?

9       A     I'm retired right now.

10      Q     Your residence, is it a farm or do you do any  
11           farming of any sort?

12      A     No, I just have a little over five acres,  
13           so--

14                   MR. WUETCHER:

15                   I think that's all I've got. Thank you.

16      HEARING OFFICER SHAPIRO:

17           Anything else Mr. Looney?

18      MR. LOONEY:

19           Sir?

20      HEARING OFFICER SHAPIRO:

21           Is there anything else you wanted to add in  
22           response to any of the questions that have been  
23           asked in relation to anything that was asked here  
24           on cross-examination?

1 MR. LOONEY:

2 No.

3 HEARING OFFICER SHAPIRO:

4 Do you have any other witnesses?

5 MR. LOONEY:

6 No.

7 HEARING OFFICER SHAPIRO:

8 Okay. Ms. Mastin, do you want to call your first  
9 witness?

10 MS. MASTIN:

11 Yes, thank you. I would like to call Danny  
12 Northcutt, he is the Manager of the Harrison  
13 County Water Association.

14 (WITNESS DULY SWORN)

15

16 The witness, DANNY NORTHCUTT, having first been  
17 duly sworn, testified as follows:

18

DIRECT EXAMINATION

19 BY MS. MASTIN:

20 Q Mr. Northcutt, would you state for the record how  
21 long you have been Manager of Harrison County  
22 Water Association?

23 A Approximately 15 years.

24 Q And would you explain to Mr. Looney and the

1 Commission why the water towers were closed?  
2 A Okay. Due to the drought everyone that is on our  
3 system that is a customer that we have a contract  
4 with to supply water was using more water, and  
5 especially on weekends. The children were all  
6 home, the parents were all home, so the demand was  
7 greater at this period of time. I brought some  
8 handouts to show, if anyone is interested, the  
9 consumption of our truck loading stations as they  
10 went up through the months of April, May, June and  
11 July, they doubled. Some of them went almost two  
12 and a half times the amount of water because as  
13 our customers were using more water on the  
14 weekends, so were all the customers that hauled  
15 with their trucks. And the reason they were not  
16 counted as customers, I mean, they are customers  
17 to a certain extent, but they are not customers to  
18 the fact that we have a contract with them. We  
19 had to cut down our truck loading stations because  
20 on weekends when they were not working they were  
21 emptying our water towers.

22 HEARING OFFICER SHAPIRO:

23 You say you have a contract with  
24 customers, are you talking about the

1 customers who receive water through the  
2 mains?

3 A Through the mains with water meters on their  
4 houses.

5 HEARING OFFICER SHAPIRO:

6 The normal residential, commercial  
7 customers?

8 A Right. They sign a water users agreement,  
9 which is a contract with us.

10 HEARING OFFICER SHAPIRO:

11 And the people who go to the bulk  
12 loading stations, they just drive up and  
13 they come from anywhere?

14 A Right. They may get a load this week, and  
15 they may not get another load for three  
16 months.

17 HEARING OFFICER SHAPIRO:

18 But you don't have any agreement with  
19 any of those people; is that what you  
20 are saying?

21 A No, sir.

22 HEARING OFFICER SHAPIRO:

23 Okay.

24 A On the two previous weekends before we closed our

1 truck loading stations the water towers, which are  
2 90 and 100 feet tall, got down in the 30s. And at  
3 that point the pressure on our water mains were at  
4 the point where we were going to have to put out a  
5 boil water alert. And some of our water towers  
6 have approximately 400 to 450 houses on that  
7 system. If it had gotten to the point where we  
8 had 30 pounds or less pressure on our water mains,  
9 then we would have had to put out full boil water  
10 alert to the entire system at that water tower  
11 location. So, we closed our truck loading  
12 stations to let our system stabilize and at the  
13 point where it stabilized and the water towers  
14 were staying full, then we reopened the truck  
15 loading stations through the week. And this was a  
16 temporary thing due to the drought. Once the  
17 drought is over then we will open them back up  
18 seven days a week.

19 MS. MASTIN:

20 Your Honor, may I approach the witness?

21 HEARING OFFICER SHAPIRO:

22 (Nodded head indicating yes.)

23 MS. MASTIN:

24 Here I have an exhibit from the--that

1 shows the gallons that were consumed  
2 each month from the truck loading  
3 stations, how it went up and down. And  
4 I'd like to have this--

5 HEARING OFFICER SHAPIRO:

6 Have you shown this to Mr. Wuetcher?

7 MS. MASTIN:

8 I'm sorry.

9 Q Mr. Northcutt, what did you mean when you said  
10 that the tower went down to 30?

11 A Well, the towers are 100 feet tall and as the  
12 truck loads, that's the customers and the  
13 truck loaders, pulled the water out of it the  
14 100 feet of water dropped down to 30 feet of  
15 water. So, basically, at the foot of the  
16 water tower we were down to about 20 pounds  
17 of pressure. The--Mr. Looney made the  
18 statement that it takes an hour to put the  
19 water back in, that is correct. Our pumps  
20 produce about 125 gallons per minute and with  
21 the consumption of 400 houses it takes about  
22 an hour to overcome the consumption to put  
23 the 1,000 gallons of water back in. What the  
24 public doesn't realize is that we have 200 or

1 300 trucks out there pulling water out of  
2 those water towers at the same time, not the  
3 same time, at four different locations and  
4 they could pull a 1,000 gallons of water out  
5 of that water tower in ten minutes. Well, in  
6 ten minutes six trucks pull up there, they  
7 pull 6,000 gallon out of that water tower and  
8 we can only put a foot back at a time with  
9 our usual consumption. So, what they were  
10 doing, they were pulling out five times more  
11 water than we could put back. And if we had  
12 not shut down the truck loading stations when  
13 we did, the tanks would have been empty, we  
14 would have had several thousand people out of  
15 water.

16 MS. MASTIN:

17 May I share this with you, Your Honor,  
18 this exhibit?

19 HEARING OFFICER SHAPIRO:

20 Well, are you going to have him identify  
21 it?

22 MS. MASTIN:

23 Yes.

24 Q Would you identify this document please?

1 A This is a--

2 HEARING OFFICER SHAPIRO:

3 Before you do that, let's mark this as  
4 Defendant's Exhibit 1 for identification  
5 purposes. Okay, go ahead.

6 A This is a monthly statement that we keep on  
7 each individual truck loading station. It  
8 shows the gallons, the bill, the date we  
9 reimbursed the operator for taking care of  
10 it. And the very first one is the Northern  
11 Harrison County Fire Department, which is at  
12 the City of Berry. Their consumption went  
13 from--in March it was 132,900 gallons, April  
14 it went up to 163,200 gallons, May it went up  
15 to 300,900 gallons, June it went to 376,700  
16 gallons, July it went to 426,000 gallons, and  
17 the June and July readings were after we went  
18 to a three day week, or four day week,  
19 actually it is a four day week. But we have  
20 to close them during our work hours--open  
21 them during our work hours so it does cut the  
22 time down a little bit. This demand through  
23 the week does not hurt us as bad as it did on  
24 the weekends. Our towers have been staying

1 full on weekends, our system has stabilized  
2 and it is working real well.

3 Q When did you prepare this exhibit Mr.  
4 Northcutt?

5 A It is always on file.

6 Q You prepared it--you took it today to bring  
7 today; is that correct?

8 A Yes, I just stapled them together.

9 MS. MASTIN:

10 I'd like to have this admitted as  
11 Exhibit 1 for the Defendant, Your Honor.

12 HEARING OFFICER SHAPIRO:

13 So ordered.

14 (EXHIBIT SO MARKED: Defendant Exhibit No. 1)

15 Q Mr. Northcutt, how--Mr. Looney testified that it  
16 was 20--15 minutes to Cynthiana and 15 minutes  
17 back. Is there a truck loading station in  
18 Cynthiana?

19 A Yes, ma'am.

20 Q And it is available seven days a week; is  
21 that correct?

22 A 24 hours a day.

23 MS. MASTIN:

24 I don't have anything, Your Honor.

1 HEARING OFFICER SHAPIRO:

2 Is that one of the Water Association's?

3 A No, it belongs to the City of Cynthiana.

4 HEARING OFFICER SHAPIRO:

5 Mr. Wuetcher?

6

7

CROSS EXAMINATION

8 BY MR. WUETCHER:

9 Q Good morning Mr. Northcutt.

10 A Good morning.

11 Q Let me start out by just asking a couple of  
12 basic questions. You say you have four truck  
13 loading stations?

14 A Yes, sir.

15 MR. LOONEY:

16 Four.

17 Q And those are located, I take it, throughout  
18 the Harrison County service area?

19 A Yes, sir.

20 Q Okay. You had mentioned the one that is  
21 located near the North Harrison County Fire  
22 Department or is operated by them in Berry.  
23 Where are the other three located?

24 A Okay. One of them is at the village of

1 Sunrise, one of them is at the village of  
2 Buena Vista, the other one is at Renaker,  
3 it's a small community.

4 Q Okay. You will have to bear with me. Can  
5 you tell me as far as what quadrant of  
6 Harrison County, where would Sunrise be?

7 A Okay. That would be in the northeast.

8 Q Okay. And Buena Vista?

9 A That would be in the east.

10 Q And Renaker?

11 A West.

12 Q And the truck loading station in Berry would  
13 be located where?

14 A North.

15 Q North, okay. And prior to the action taken by the  
16 Water Association to reduce the hours of the truck  
17 loading stations, what were the normal operating  
18 hours for them?

19 A Twenty-four hours a day, seven days a week.

20 Q Were all the truck loading stations limited  
21 in their hours of operation?

22 A Yes, sir.

23 Q What is the--as far as the percentage of  
24 Harrison County's--the Water Association's

1 water usage, what percentage of sales comes  
2 from the truck loading stations? If you  
3 don't know, that is fine.

4 A That would be a tough one, you'd have to do  
5 that one on a calculator.

6 Q Okay. Do you have a ballpark estimate?

7 A Well, we are running about 30 million a month  
8 and this is not--we are not selling a million  
9 through these, so I don't know what that  
10 would be.

11 Q Well, the figures you gave before when you  
12 read out the figures for Berry, those were  
13 in--for monthly figures, right?

14 A Yes, sir.

15 Q Okay. So, are we talking somewhere in the  
16 neighborhood or 5% to 10% or lower than that?

17 A I would say less than 10%.

18 Q Okay. Harrison County purchases its water from  
19 the City of Cynthiana?

20 A Yes, sir.

21 Q Has the City of Cynthiana imposed any  
22 restrictions or reductions on the amount of  
23 water that Harrison County can take?

24 A No, sir.

1 Q Do you know if the Harrison County Fiscal  
2 Court has imposed any type of water  
3 restrictions on county residents as far as  
4 prohibitions or fines for watering yards,  
5 things of that nature?

6 A No, sir.

7 Q Has the Water Association made any requests to the  
8 County Judge or the county Fiscal Court to impose  
9 restrictions?

10 A No.

11 Q Has the City of Cynthiana imposed any  
12 restrictions on its users?

13 A Well, as a whole, we have asked people to  
14 conserve, not water yards and flowers and wash  
15 their vehicles but, other than that, there is no  
16 restrictions as far as a fine if they do it, it is  
17 just a mandatory--I mean, a--

18 Q You asked them for a voluntary cut back?

19 A Voluntary.

20 Q Do you know what drought phase Harrison  
21 County is in?

22 A Three.

23 Q Drought phase three. Aside from the  
24 restrictions you have placed on the

1 operations of the water--for the truck  
2 hauling units--has the Water Association made  
3 any other changes in its operations to meet  
4 increased demand from--as caused by the  
5 drought?

6 A No, sir.

7 Q I'm trying to make sure I understand the--  
8 from the Water Association's view point, the  
9 problem is that during the weekends there are  
10 a larger number of customers at home and so  
11 their usage is increasing?

12 A Correct.

13 Q And that places a greater demand on the  
14 system?

15 A Correct.

16 Q Do you all read your or take a daily  
17 measurement of your water consumption?

18 A Yes, sir.

19 Q And that is--your records support that to  
20 show that there is an increase?

21 A Yes, sir.

22 Q Can you give me an idea as to how much the  
23 difference is on the weekends as opposed to a  
24 normal work day?

- 1 A I don't have any of those records with me,  
2 but it is probably a 100,000 gallons a day  
3 difference, in the ballpark.
- 4 Q Okay, And give me a little bit better point  
5 of measurement, 100,000 gallons would be what  
6 in terms of increase over a day?
- 7 A Okay. We, basically, the last two weeks we  
8 have been running about 900,000 a day. And  
9 it will jump up to a million gallons--
- 10 Q So, you are using--
- 11 A --on weekends.
- 12 Q So, you are using 10% to 12% more each  
13 weekend day?
- 14 A Yes, sir. Plus that was the day that the  
15 farmers would all haul their water also, was  
16 the weekends, or anyone else that was working  
17 through the week they would haul them on the  
18 weekends.
- 19 Q Okay. Now, Mr. Looney has filed a complaint  
20 with the Commission, he is the only one that  
21 has filed a complaint, but would I be correct  
22 in assuming that you have gotten other  
23 complaints?
- 24 A Yes, sir.

1 Q How many complaints has the Water Association  
2 gotten?

3 A I was trying to think who all, half a dozen,  
4 maybe.

5 Q Recognizing that you don't have a contract  
6 with the water haulers--people that get their  
7 water from the Water Association through the  
8 hauling stations--but can you give me an  
9 estimate as to how many people you feel in  
10 your all's service territory are getting  
11 their water from the Water Association  
12 through the hauling stations?

13 A I would say probably in 200 to 300 range.

14 Q What do you base our estimate on, just--

15 A Just the ones that I know that haul from the  
16 different locations?

17 MR. WUETCHER:

18 I think that's all I have, if I could  
19 just see the exhibit for one moment.

20 Q The meter usage that is recorded on Defendant's  
21 Exhibit 1, do you take this as a--is there a  
22 requirement in the state law for you to record the  
23 meter usage each month?

24 A Yes. Well, we read the meters each month and

1 we have--there are private individuals that  
2 take care of--that man these, and we read the  
3 meters and bill the individual for the water  
4 that goes through their truck loading  
5 station.

6 Q Okay. And this is an operating procedure that you  
7 follow each month so that at the end of the month  
8 you go in and read the meters just to insure you  
9 have got a reading as to how much water is coming  
10 from those stations?

11 A Correct.

12 Q Has the Water Association done any type of  
13 planning or review to determine how this  
14 situation could be avoided in the future?

15 A Yes, sir, we have our engineers, PEH  
16 Engineers in Louisville, is looking into  
17 upgrading our system.

18 Q Have they reported back to the Water  
19 Association yet on any recommendations or is  
20 that still an ongoing review?

21 A It's still ongoing.

22 Q Do you have a--have they given you an  
23 estimate as to when they will be making  
24 recommendations to you?

1 A Not that I know of.

2 Q Do you know if it will be before the end of  
3 the year?

4 A We hope so.

5 Q Does the Water Association have a water shortage  
6 response plan?

7 A Yes, sir.

8 Q Okay. Has that--have you all placed that  
9 into effect?

10 A No, not yet.

11 Q When you made the announcement that the  
12 operation of the water hauling stations was  
13 going to be curtailed, what--was there any  
14 advance notice of that and how was notice  
15 given to the public?

16 A I don't believe there was advance notice, it  
17 was an emergency.

18 Q And was the notice--some type of notice after  
19 the plants were closed notice was given to  
20 what, the local newspaper?

21 A Yes, sir, and they were put on the buildings,  
22 the truck loading stations themselves.

23 MR. WUETCHER:

24 I think that's all we have. Thank you.

1 HEARING OFFICER SHAPIRO:

2 Mr. Northcutt, let me just ask you something, I  
3 just want to clarify something in my own mind, but  
4 as I understand the problem is really not because  
5 of the drought directly, but the problem that you  
6 have is the increased demand upon your bulk  
7 loading stations?

8 A Correct.

9 HEARING OFFICER SHAPIRO:

10 And because of the increased demand the water was  
11 being withdrawn faster than it could be replaced  
12 in the towers?

13 A Absolutely.

14 HEARING OFFICER SHAPIRO:

15 And as a consequence the towers were being drawn  
16 down to a level below which you could not maintain  
17 30 pounds per square inch for your customers and  
18 you were also approaching a point where you would  
19 have to issue a boil water advisory because of the  
20 low level of water?

21 A Yes, sir.

22 HEARING OFFICER SHAPIRO:

23 And that is the reason why you felt it was  
24 necessary then to institute shorter hours in order

1 to--particularly on the weekends--to close them on  
2 the weekends in order to allow the towers to  
3 recover?

4 A Yes, sir.

5 HEARING OFFICER SHAPIRO:

6 Thank you Mr. Northcutt. Any redirect?

7 MS. MASTIN:

8 Yes, Your Honor, please.  
9

10 REDIRECT EXAMINATION

11 BY MS. MASTIN:

12 Q Mr. Northcutt, would you explain why the water  
13 stations, water loading stations, were established  
14 to begin with?

15 A They were just put in as a convenience. The  
16 City of Cythiana has always had a truck  
17 loading station there and the people would go  
18 in and line up to get their water. And the  
19 Harrison County Water Association decided to  
20 start putting in the truck loading stations  
21 in the surrounding areas to help the  
22 customers--the farmers be a little bit closer  
23 to their homes and so the line of traffic  
24 wouldn't be backed up as far to get the truck

1 load of water.

2 Q There is nothing in our tariff that requires  
3 us to have water loading stations, is there?

4 A No, ma'am, not that I know of.

5 Q And when you are in the office there at the  
6 Harrison County Water Association you can  
7 monitor every tower in Harrison County; is  
8 that correct?

9 A Yes, ma'am.

10 Q And you can see the level dropping even  
11 without reading; is that correct?

12 A Yes, ma'am.

13 MS. MASTIN:

14 I don't have anything else.

15 MR. WUETCHER:

16 I have a couple more questions.

17 HEARING OFFICER SHAPIRO:

18 Let me ask Mr. Looney if he has some questions?

19 MR. LOONEY:

20 Yes, I have some questions.

21 HEARING OFFICER SHAPIRO:

22 Now, this is only in response to what has been  
23 brought up.

24

1 MR. LOONEY:

2 That's right.

3

4

CROSS EXAMINATION

5 BY MR. LOONEY:

6 Q Okay. You say you shut this water station down  
7 for a week.

8 A It was at least a week, yes, sir.

9 Q Okay. They were shut down from June 11 to  
10 June--what I'm trying to say is they were  
11 shut down 13 days.

12 HEARING OFFICER SHAPIRO:

13 Is this--Mr. Looney, let me caution you  
14 about something.

15 MR. LOONEY:

16 Yes, sir.

17 HEARING OFFICER SHAPIRO:

18 You need to ask questions, I mean, this  
19 is not the time for you to testify.

20 MR. LOONEY:

21 Okay.

22 HEARING OFFICER SHAPIRO:

23 You can ask him questions but you can't  
24 testify in response to what he says.

1 MR. LOONEY:

2 All right.

3 Q Okay. Here is the paper that we got when  
4 they closed the water stations.

5 HEARING OFFICER SHAPIRO:

6 Now, is this a question? Are you going  
7 to ask him a question about something in  
8 the paper?

9 MR. LOONEY:

10 Yes.

11 HEARING OFFICER SHAPIRO:

12 Okay.

13 Q Why did we just get a short notice like this?  
14 This is June 10, on June 11 they were shut  
15 down. Why did we get such a short notice  
16 that they was going to be shut down?

17 A The only thing that I can think of we only  
18 have a weekly paper and that was the only  
19 time we could get it in the paper. The other  
20 thing is we have no idea who our customers  
21 are that haul water. There is no way of  
22 notifying everybody that we were going to  
23 shut them down. We put it in the paper as  
24 quick as we could, we had to close the truck

1 loading stations because our towers were near  
2 empty.

3 Q Did you get federal money or monies from the  
4 federal government?

5 A Yes, sir.

6 HEARING OFFICER SHAPIRO:

7 Are you asking him if he got money from  
8 the--federal money to build these  
9 stations or just in general?

10 MR. LOONEY:

11 Just in general.

12 A We borrow money from the federal government  
13 to put in water mains.

14 Q Grants?

15 A And grants.

16 Q Okay. Now, do you think that you don't--  
17 since you don't call us a customer, do you  
18 think you are doing the people of Harrison  
19 County right, all the people or just some of  
20 the people?

21 A We have a contract with 4,000 people,  
22 customers, in Harrison County to supply them  
23 with adequate water and adequate pressure.  
24 And those are the customers that we have to

1 satisfy with adequate water and adequate  
2 pressure.

3 Q We are not a customer then?

4 A You are a customer but we do not have a  
5 contract with you.

6 Q Do you run water lines in other counties?

7 A Yes, sir.

8 Q You know, I'm not a lawyer and I was expecting one  
9 to be here to help me, you know, from the water  
10 place here, but I'm not too swift on this, you  
11 know. Okay. I just don't understand myself  
12 things, so I'll have to ask you. Is it all right  
13 if I ask you some things?

14 HEARING OFFICER SHAPIRO:

15 Well, you can ask him questions and then  
16 if you have some--if there is something  
17 you want to ask me about the procedure  
18 I'll be glad to try to help you. But I  
19 can't ask the questions for you.

20 MR. LOONEY:

21 No, I don't want you to ask the  
22 questions for me.

23 HEARING OFFICER SHAPIRO:

24 All right, what is it you want to know?

1 MR. LOONEY:

2 How can they use grants and federal  
3 money--

4 HEARING OFFICER SHAPIRO:

5 Well, again, that is something that you  
6 are getting into--you are asking me to--

7 MR. LOONEY:

8 You see, I need to know this.

9 HEARING OFFICER SHAPIRO:

10 Well, you can ask him what they do with  
11 the money they receive and what they--  
12 and then you can make an argument about  
13 it. But I can't tell you--I can't give  
14 you a lesson--

15 MR. LOONEY:

16 Okay, I'll just ask him.

17 Q You use Harrison County grant money or federal  
18 money to put the water lines in surrounding  
19 counties like in Nicholas County where you have  
20 got that little U thing there.

21 A Yes, sir.

22 Q Why did you--I don't know if I can ask it--

23 HEARING OFFICER SHAPIRO:

24 Yes, go ahead.

1 Q Why did you do this?

2 A Okay. Harrison County Water is a private  
3 organization. It has the name Harrison  
4 County but it does not belong to Harrison  
5 County. It is not a Fiscal Court--it is not  
6 under the Fiscal Court, it is not a  
7 governmental body. We are a private  
8 business. We borrowed money from FHA to put  
9 water lines into customers. We are not  
10 Harrison County oriented, we can go in any  
11 county we want to as long as that county does  
12 not protest it. We can supply all of Bourbon  
13 County, all of Nicholas County and all of  
14 Scott County with water if we wish to.

15 Q And you don't want to supply the people that  
16 is on the water stations. Let me ask you  
17 this, do you want to get rid of those water  
18 stations, do you want to eliminate the water  
19 stations?

20 A No, sir, absolutely not. We make as good a  
21 money from truck loading stations as we do  
22 from our other customers as far as a profit.  
23 It is the point that they can pull water out  
24 so fast that we cannot fill our water towers

1 up. Now, the demand from Exhibit 1 shows  
2 that the water supply is dropping back  
3 because of the fall. Everybody has quit  
4 watering their yards and flowers and trees  
5 and whatever, the consumption is going down.  
6 We will probably at some point, unless the  
7 drought gets worse, open them back up seven  
8 days a week. But the federal money that we  
9 borrow, we borrow it and we pay it back, just  
10 like if you would borrow the money from FHA  
11 to build a house and you pay it back.

12 Q But we do get free money, grants?

13 A We do get grant money, yes, sir.

14 MR. LOONEY:

15 Well, I think that is all for right now  
16 for him.

17 HEARING OFFICER SHAPIRO:

18 Mr. Wuetcher?

19 MR. WUETCHER:

20 I've just got a few more.

21

22 RECROSS EXAMINATION

23 BY MR. WUETCHER:

24 Q Let me start with, you said that hauling stations

1           were established in part to reduce inconvenience  
2           of having to go to Cynthiana to use their hauling  
3           stations. When were the hauling stations  
4           initially established?

5       A     They were put in at different times, probably  
6           in the--the first one was probably  
7           established in 1967. And then they were put  
8           in at different times from then until about--  
9           I guess our last one went in probably five  
10          years ago.

11       Q     Okay. And how long has the Water Association  
12           been in existence?

13       A     Since '65.

14       Q     Did the Water Association receive any instructions  
15           or guidance or suggestions from the Division of  
16           Water to close down those stations as a result of  
17           the demand being placed on the system?

18       A     No, sir.

19       Q     Have you all had--has the Water Association  
20           has any communications with the Division of  
21           Water?

22       A     Yes, sir.

23       Q     It has? Concerning the shut--the closure?  
24           What type of communication was that?

1 A It was telephone. They called, of course  
2 when we shut these down the media had a  
3 feeding frenzy, the television cameras came  
4 down from Channel 27, Channel 18, Channel 36,  
5 picked it all up on the TV and the Division  
6 of Water saw it so they called us and asked  
7 us what was going on. And we explained it to  
8 them and they had no problems with it.

9 Q Do you know who you spoke with at the  
10 Division of Water?

11 A Tom Galbraith.

12 Q Do you know what branch within the Division  
13 of Water that he was with?

14 A No, sir.

15 Q But you have not received any other communication  
16 from the Division of Water concerning the closure  
17 of the--or the reduced operating hours for the  
18 water stations?

19 A They call us every Monday and ask us about  
20 our usage and the truck loading stations.

21 Q Okay. The actual tank--you had mentioned  
22 before there were two storage tanks in  
23 question, one was 100 feet and the other was  
24 90 foot?

- 1 A Yes, sir.
- 2 Q Does that 100 foot to overflow?
- 3 A Yes.
- 4 Q Okay. What is the actual storage capacity of  
5 each tank?
- 6 A About 115,000 gallons.
- 7 Q Each tank has a storage of 115,000 gallons?
- 8 A Well, the 90 foot would probably be about  
9 105.
- 10 Q Okay. And the water hauling stations closed  
11 on--were closed on June 11; is that right?
- 12 A Yes, sir.
- 13 Q Okay. When did they resume operations with the  
14 limited hours of operations?
- 15 A I really can't give you that date, sir.
- 16 Q Well, can you give me--
- 17 A It was on a Monday the following week, so I  
18 guess it was--whatever the 11th fell on, it  
19 was closed for one full week and two week-  
20 ends. So, it could have been--Mr. Looney  
21 says 13 days,--
- 22 Q That's good enough.
- 23 A --it could have possibly been that.
- 24 Q Okay. And whenever--the Water Association is

1 monitoring its daily purchases from the City  
2 of Cynthiana; is that correct?

3 A Yes, sir.

4 Q Could you all provide us with the daily water  
5 purchases from, let's say, June 1 to  
6 September 1 so we have a good picture of what  
7 is going on?

8 A I don't have it with me.

9 Q No, I mean if you could provide them, let's  
10 say, within seven days, would that be  
11 adequate time to--

12 A Yes, sir.

13 Q And if you could also provide us with what your  
14 average daily purchases are so we have a point of  
15 comparison between what normally goes on and what  
16 you have been experiencing during the summer?

17 A I thought that was--you have two different  
18 things there you are wanting?

19 Q Well, no, what I'm looking for is the--

20 A The daily consumption?

21 Q The daily consumption and then if you could  
22 just also give us what, on an annual basis,  
23 what your average daily consumption would be,  
24 what it would be like under normal

1 circumstances?

2 A Okay.

3 Q The pumps to both those water storage tanks,  
4 how much time are they in operation now, are  
5 they pumping around the clock?

6 A Yes, sir. Right now they are running 24  
7 hours a day.

8 Q And how long have they been operating under  
9 that fashion?

10 A Since April.

11 MR. WUETCHER:

12 I think that's all we have. Thank you.

13 HEARING OFFICER SHAPIRO:

14 Thank you Mr. Northcutt.

15 MR. LOONEY:

16 Could I ask one more question?

17 HEARING OFFICER SHAPIRO:

18 Okay, it has to be in relation to something that  
19 was--

20 MR. LOONEY:

21 All right, okay. You asked the--he was asked how  
22 many complaints that he got from the--I sent--

23 HEARING OFFICER SHAPIRO:

24 Well, all right, just go ahead, just ask the

1 question.

2 MR. LOONEY:

3 You say you got eight or ten complaints or  
4 something like that. Well, I don't know how to  
5 put this.

6 HEARING OFFICER SHAPIRO:

7 What is it you want to know?

8 MR. WUETCHER:

9 I think I can ask the question for him.

10 MR. LOONEY:

11 Well, let him.

12 MR. WUETCHER:

13 If I can--if I may.

14 HEARING OFFICER SHAPIRO:

15 Go ahead.

16

17

RE CROSS EXAMINATION

18 BY MR. WUETCHER:

19 Q When Mr. Looney submitted his complaint to the  
20 Commission he attached to it a petition signed by  
21 --this is several pages long of other people who  
22 were also complaining concerning the reduction in  
23 operating hours and the closure of the water  
24 hauling facilities. First, have you seen that

1 petition?

2 A Yes, sir.

3 Q Okay. And does that in any way change your  
4 response to the question I asked you earlier  
5 concerning the number of complaints that you--that  
6 the Water Association received?

7 A Okay. I guess I misunderstood what you were  
8 saying. I was counting his petition as one  
9 complaint.

10 Q Okay.

11 A I mean, personally I have just had eight or  
12 ten people really complain to me personally  
13 about the truck loading stations. I'm sure  
14 there has been--I'm sure all 200 or 300 has  
15 probably complained to someone or each other  
16 at the truck loading stations. I don't know  
17 how many people he had on his list but I'm  
18 sure there is several besides the eight or  
19 ten that has complained to me.

20 MR. WUETCHER:

21 Okay, does that answer your question?

22 MR. LOONEY:

23 (Nodded head indicating yes.)

24 A And we understand it is an inconvenience, you

1 know. It is--but we felt like it was a necessary  
2 inconvenience.

3 HEARING OFFICER SHAPIRO:

4 Okay. Thank you Mr. Northcutt. Any other  
5 witnesses?

6 MS. MASTIN:

7 No, sir, Your Honor.

8 HEARING OFFICER SHAPIRO:

9 Let's take about five minutes and when we come  
10 back we will have closing statements. And the  
11 purpose of closing statements, Mr. Looney, will be  
12 for you to argue why you think the relief you have  
13 asked for should be granted, and Ms. Mastin will  
14 have the opportunity to argue why she thinks it  
15 shouldn't be granted or--and Ms. Mastin will go  
16 first and you will make the last closing  
17 statement. Okay? We will be in recess for five  
18 minutes.

19 (OFF THE RECORD)

20 HEARING OFFICER SHAPIRO:

21 Back on the record. Okay. You want to come on  
22 back up Mr. Looney and--okay, Ms. Mastin.

23 MS. MASTIN:

24 Thank you, Your Honor. I just want to emphasize

1           that the water stations, loading stations, were  
2           put in in the early stages of the Harrison County  
3           Water Association's development, at a time when we  
4           had maybe 500 customers. They were put there as  
5           conveniences, as Mr. Northcutt testified, and our  
6           water usage was not as great then as now. The  
7           drought conditions that we have been under this  
8           year have caused folks who usually would have had  
9           water in their cisterns from rain to have to use  
10          the water loading--the truck loading stations to  
11          get their water supply. That has caused a problem  
12          with our loading stations. And in response to  
13          Mr. Looney's question about water lines being in  
14          other counties, in order for us to get funding  
15          from FHA we have to provide a plan as to where we  
16          are going with--where the greatest need is. And  
17          sometimes, for instance, in Bourbon County there  
18          was a grant that they were given. And they  
19          approached us about coming into that county, so we  
20          had to provide the water to that county as part of  
21          our--as part of FMHA's requirements. Right at the  
22          present time we have two applications in and are  
23          putting in two new phases of water services to  
24          customers in Harrison County. And I hope that

1 will respond adequately to Mr. Looney's complaint.

2 HEARING OFFICER SHAPIRO:

3 Mr. Looney?

4 MR. LOONEY:

5 Well, to me, it looks like when they put those  
6 water stations in they were wanting to make a  
7 profit off the people of the county. All right.  
8 Now, they have got several people on the water  
9 lines, they turn around and say, hey, well, we  
10 don't need you all. We have people on the water  
11 lines and you are secondary because we was turned  
12 off without water for 13 days. And you know some  
13 of those people just have a 1,000 gallon cistern,  
14 or 2,000 gallons, or 8,000, 10,000, that is a  
15 hardship. They created this theirselves, they put  
16 those water stations out there, we got--we depend  
17 on those water stations, then they turn around and  
18 say, whoa, hey, we are just going to cut you off  
19 for 13 days or we are going to just divvy it out  
20 to you. To me, that is not right. And I've got a  
21 whole lot of other peoples that thinks that is not  
22 right, too, because a lot of people today put  
23 tobacco up, has to work, or I would have had some  
24 people with me. And it is not right to lull a

1           fellow into this and then pschewww, whip it to  
2           him. Now, those people in town, out in the  
3           county, my neighbors that are on the water line,  
4           they are out there watering their garden. The  
5           more water they use the cheaper their bill is.  
6           You know what I'm talking about, they use a 1,000,  
7           2,000, 10,000, the bill keeps going down, my bill  
8           stays the same. It is \$8.50 for a thousand  
9           gallons, besides my time, my truck, my gasoline.  
10          It is not my fault they don't run these water  
11          lines to the people's houses, all right. There is  
12          one lady ain't here, in the newspaper, said if  
13          they want me to I can go back and show you, she  
14          said we built a house and they said the water line  
15          will be there in two years. She says it has been  
16          five years and they tell us another two years.  
17          You know, that is kind of tough, you know. It's  
18          not my fault I don't have the water line, but they  
19          lulled us into depending on these and then they  
20          shut them down for 13 days. And I don't  
21          understand it. And if you try to go without water  
22          for that long and you have got a family, hey, it  
23          is tough. You will either have to go to Cynthiana  
24          to the city water plant or go to Falmouth. And

1           that is a long way to Falmouth, brother. And it  
2           is, you know, you go to the city water plant,  
3           trucks there, as the fellow said, they are backed  
4           up and you might be there for an hour, two hours,  
5           just according to how much traffic they have. Do  
6           you understand what I'm trying to say?

7           HEARING OFFICER SHAPIRO:

8           Do I understand what you are trying to say?

9           MR. LOONEY:

10          Yes.

11          HEARING OFFICER SHAPIRO:

12          I understand your problem.

13          MR. LOONEY:

14          Okay. Well, that's about all I have to say right  
15          now.

16          HEARING OFFICER SHAPIRO:

17          Okay. Thank you Mr. Looney. That will conclude  
18          the hearing then. You've been ask to furnish some  
19          additional information and I believe you said you  
20          could furnish it within about a week; is that  
21          correct?

22          MS. MASTIN:

23          Yes.

24

1 HEARING OFFICER SHAPIRO:

2 Okay. Once that information has been furnished  
3 and the transcript has been prepared and filed,  
4 then this matter will be submitted for a decision  
5 by the Commission and the Commission will take the  
6 matter under review. If nothing further, the  
7 hearing is adjourned. Thank you.

8 (OFF THE RECORD)

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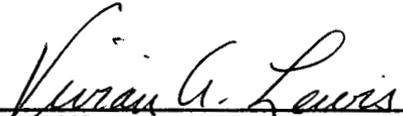
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CERTIFICATE

STATE OF KENTUCKY )  
COUNTY OF FRANKLIN)

I, VIVIAN A. LEWIS, a Notary Public in and for the state and county aforesaid, do hereby certify that the foregoing testimony was taken by me at the time and place and for the purpose previously stated in the caption; that the witnesses were duly sworn before giving testimony; that said testimony was first taken down in shorthand by me and later transcribed, under my direction, and that the foregoing is, to the best of my ability, a true, correct and complete record of all testimony in the above styled cause of action.

WITNESS my hand and seal of office at Frankfort, Kentucky, on this the 4th day of October, 1996.

  
\_\_\_\_\_  
VIVIAN A. LEWIS  
Notary Public  
Kentucky State-at-Large

My commission expires: 7-23-01

*Nivian A. Lewis*

COURT REPORTER - PUBLIC STENOGRAPHER  
101 COUNTRY LANE  
FRANKFORT, KENTUCKY 40601

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BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION  
CASE NO. 99-284

**FILED**

OCT 06 1999

PUBLIC SERVICE  
COMMISSION

RE: HARRISON COUNTY WATER ASSOCIATION, INC.

Pursuant to notice duly given, the above-styled matter came to be heard September 24, 1999, at 10:00 a.m. in the Hearing Room of the Kentucky Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601; The Honorable Paul Shapiro presiding.

VIVIAN A. LEWIS  
COURT REPORTER - PUBLIC STENOGRAPHER  
101 COUNTRY LANE  
FRANKFORT, KENTUCKY 40601  
(502) 695-1373

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION  
CASE NO. 99-284

RE: HARRISON COUNTY WATER ASSOCIATION, INC.

APPEARANCES:

Hon. Paul Shapiro  
Hearing Officer  
PUBLIC SERVICE COMMISSION

Hon. Gerald Wuetcher  
Legal Counsel  
PUBLIC SERVICE COMMISSION

Hon. Dorothy Jo Mastin  
9 South Walnut Street  
Cynthiana, Kentucky 41031  
Legal Counsel  
HARRISON COUNTY WATER ASSOCIATION

Mr. Charles B. Looney  
Route 1, Box 502  
Berry, Kentucky  
Representing himself

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1 HEARING OFFICER SHAPIRO:

2 This is a hearing before the Kentucky Public  
3 Service Commission in the matter of Charles B.  
4 Looney versus the Harrison County Water  
5 Association, Inc., Case Number 99-284. Mr.  
6 Looney, are you present--

7 MR. LOONEY:

8 Yes, sir, I'm right here.

9 HEARING OFFICER SHAPIRO:

10 --and ready proceed. And is Harrison County Water  
11 Association present and ready to proceed?

12 MS. MASTIN:

13 Yes, Your Honor.

14 HEARING OFFICER SHAPIRO:

15 Let me get appearances first. Mr. Looney, will  
16 you give us your full name and address?

17 MR. LOONEY:

18 Charles B. Looney, Route 1, Berry, Kentucky, Box  
19 502.

20 HEARING OFFICER SHAPIRO:

21 What city was that?

22 MR. LOONEY:

23 Berry, B-e-r-r-y.  
24

1 HEARING OFFICER SHAPIRO:

2 Okay. And for Harrison County Water Association?

3 MS. MASTIN:

4 I'm Dorothy Jo Mastin, my address is 9 South  
5 Walnut Street, Cynthiana, Kentucky 41031.

6 HEARING OFFICER SHAPIRO:

7 And for Commission Staff.

8 MR. WUETCHER:

9 For Commission Staff, Gerald Wuetcher.

10 COURT REPORTER:

11 Would you spell your last name please?

12 MS. MASTIN:

13 M-a-s-t-i-n.

14 HEARING OFFICER SHAPIRO:

15 Ms. Mastin, have you had an opportunity to review  
16 the complaint filed by Mr. Looney?

17 MS. MASTIN:

18 Yes, Your Honor.

19 HEARING OFFICER SHAPIRO:

20 Mr. Looney, you are not represented by counsel; is  
21 that right?

22 MR. LOONEY:

23 No.

24

1 HEARING OFFICER SHAPIRO:

2 Let me briefly explain the procedures that we will  
3 be following here this morning. The hearing will  
4 be conducted in much the same manner as a trial is  
5 conducted. In other words, you will be given an  
6 opportunity to present evidence in support of the  
7 matters that you allege in your Complaint. After  
8 you have presented that evidence, you can do that  
9 yourself or you can call witnesses on your behalf.  
10 If you do it yourself, then you will just simply  
11 make a statement, the statement would be under  
12 oath, then you will be subject to cross-  
13 examination by Ms. Mastin and by Mr. Wuetcher. If  
14 you call witnesses then you would ask the  
15 witnesses questions, they would respond and, then,  
16 they would also be subject to cross-examination by  
17 Ms. Mastin and Mr. Wuetcher. After you have  
18 presented all of your evidence, then the Water  
19 Association will be given an opportunity to  
20 present their evidence. I assume that will be  
21 through the testimony of witnesses that Ms. Mastin  
22 will call. After each witness has testified in  
23 response to questions that Ms. Mastin asked, then  
24 you will be given an opportunity to question them

1 as well as Mr. Wuetcher. Unlike a trial, however,  
2 we will not have opening statements where you can  
3 explain your position to the Commission or what  
4 you intend to prove. That is because an opening  
5 statement is generally designed to acquaint a jury  
6 with what the case is about. The record, however,  
7 contains that information and I have read the  
8 record, so I am fairly familiar with what the  
9 complaint is. So, we will then--what we will do  
10 is we will immediately go into the evidentiary  
11 portion of the hearing unless there are some  
12 preliminary matters that need to be taken up; are  
13 there? Do you have any questions about the  
14 procedure today?

15 MR. LOONEY:

16 No, I don't think so. If I do, I'll--

17 HEARING OFFICER SHAPIRO:

18 We'll help you get through it, okay. Ms. Mastin,  
19 do you have anything?

20 MS. MASTIN:

21 No, sir, Your Honor.

22 HEARING OFFICER SHAPIRO:

23 Okay. Mr. Looney, do you wish to make a--call any  
24 witnesses or do you wish to testify on your own





1 days. Now, if you take a man's water away from  
2 him for that length of time, he has to drive to  
3 Cynthiana with a 300 gallon tank on his truck or  
4 he can drive to Falmouth for the same amount of  
5 water and come back home, and the people in the  
6 town or in the country that is on the water line,  
7 hey, they are out watering their garden, car  
8 washes are going, and we can't understand why the  
9 people that is on the water line has all these  
10 privileges. All we want was water because we have  
11 a cistern, my understanding is because we have a  
12 cistern we should have water. If it don't rain,  
13 we don't have water. All we want is water and  
14 those water stations has been around for years and  
15 years and years. Because where I live, I live  
16 eight miles out of town, three miles from me is a  
17 water station where you can go get your water,  
18 load it on your truck, you pay for it. These  
19 people say we are not water customers. Those  
20 water stations have been there before a third of  
21 the houses out in that area was built and we can't  
22 understand why we can't get water when they run  
23 the water lines to Bourbon County, Scott County,  
24 Nicholas County, all the counties around us. Hey,

1 they get water, we can't get water because they  
2 shut us down. We have to--it causes us a burden  
3 to go get it. Some people work seven days a--you  
4 know, work from seven to seven or six to six  
5 because if you check the record you will see that  
6 3M works 12 hours a day. Now, you get home at  
7 seven o'clock at night, hey, you don't have much  
8 time to go get your water if you have got to go to  
9 Cynthiana or Falmouth. What the whole situation  
10 is, that I see, they say if we take a 1,000  
11 gallons, load it on our truck, it takes  
12 approximately an hour or longer to pump that back  
13 into those tanks or ever what they have there for  
14 water towers, that is what they called them. Hey,  
15 now, if they keep putting houses on the water line  
16 they are not having no water in the tanks, no  
17 pressure. And we can't understand that. If you  
18 add 200 more houses on to the tanks that the--the  
19 water towers that they have now and they say it  
20 takes an hour to an hour and a half, what is in  
21 the papers, in the newspapers, it takes an hour to  
22 an hour and a half, there is something bad wrong  
23 somewhere, but I don't understand it and the  
24 people that is on the--that is not on the water

1 line don't understand it because the federal  
2 government gives them the money. And they are  
3 just saying, hey, you all don't need it. You  
4 know, we will build--we will put some water lines  
5 over in Nicholas County, they have got what they  
6 call the loop, went out of the county, runs around  
7 these houses, but they can't run a water line up  
8 these little roads for people because they say,  
9 well, it's not economical. In other words, they  
10 are trying to make money instead of trying to  
11 serve the people. That's my whole opinion of the  
12 thing and that's a lot of other people's opinion.  
13 Because if you look you see the swimming pools  
14 full of people swimming in their swimming pools.  
15 If there is a shortage of water why do they have  
16 their car washes going, the swimming pools going,  
17 golf courses getting water? Out in front of Wal-  
18 Mart and those places out there, how come those  
19 sprinklers is running around? I don't know if  
20 they are doing it right now, but they were doing  
21 it back a couple of months ago. We don't  
22 understand it. I guess we just, you know, are  
23 common people, we don't have all this management  
24 or something I'd say they have. But you know if

1 you pay \$8.50 for a 1,000 gallons or water and you  
2 have to haul it, you're going to conserve that  
3 water, and you see your neighbor out there that is  
4 on the water line standing out there watering his  
5 garden and yours is burned up, we don't understand  
6 that. And that is about all I have to say. But  
7 those water stations has been there for years and  
8 years and years because I've lived out there for  
9 20 years and I think the federal government helped  
10 put those in, you know. They got money from the  
11 federal government for the Water Association or  
12 any of the Cynthiana City Water, I can't  
13 understand how they can cut us off and say we are  
14 not a customer. We pay every time we get water  
15 and we have been doing it for years. That's about  
16 all I have to say for right now.

17 HEARING OFFICER SHAPIRO:

18 Mr. Looney, what county do you live in?

19 A Harrison County.

20 HEARING OFFICER SHAPIRO:

21 Ms. Mastin?

22 MS. MASTIN:

23 Thank you. May I have just a minute, Your Honor?

24

1 HEARING OFFICER SHAPIRO:

2 Mr. Looney, you will have to sit there, she will  
3 have some questions for you.

4 A Okay, I sure will.

5 CROSS EXAMINATION

6 BY MS. MASTIN:

7 Q Mr. Looney, where did you get your water before  
8 the truck loading station was built?

9 A There was a truck loading station, as far as  
10 I know, was there when I built my house.

11 Q Do you have a cistern?

12 A Yes, I have a cistern.

13 Q Do you collect water from your gutters and--

14 A Yes, ma'am, I do.

15 Q Now, the water stations, the water truck loading  
16 stations are back on now; isn't that correct?

17 A Yes, three and a half days a week.

18 Q They are on Monday through Thursday; correct?

19 A From Monday at nine o'clock 'til Thursday at  
20 one.

21 Q And you can haul water those days?

22 A Yes, ma'am.

23 Q And you have been doing so; isn't that  
24 correct?

1 A Yes, ma'am, those three days, three and a  
2 half days.

3 Q Are you also aware that the City of Cynthiana  
4 controls the car washes, the sprinklers, et  
5 cetera, in the city of Cynthiana and not the  
6 Harrison County Water Association?

7 A That's right.

8 Q So, we have no control over how water is used  
9 in Cynthiana; do you understand that?

10 A I understand that.

11 Q Do you also understand that we are in a  
12 severe drought and when water--when the truck  
13 loading stations dump a 1,000 gallons of  
14 water it causes the pressure in our towers to  
15 decrease?

16 A Yes, ma'am.

17 MS. MASTIN:

18 I don't have any more questions, Your  
19 Honor.

20 HEARING OFFICER SHAPIRO:

21 Mr. Wuetcher?

22 MR. WUETCHER:

23 Just a few.

24

CROSS EXAMINATION

1

2 BY MR. WUETCHER:

3 Q Mr. Looney, how far do you live from Falmouth?

4 A From my house to Falmouth?

5 Q Yes, sir.

6 A If I go to Cynthiana to Falmouth?

7 Q Yes, sir.

8 A I'd say it is--I live eight miles out in the  
9 country and I'd say it is about 30 miles from  
10 Cynthiana to Falmouth.

11 Q So, it is about 30 miles for you to travel?

12 A One way, that would be 60 miles or more.

13 Q Okay. 60 miles, and as far as travel time,  
14 how long is that?

15 A I'd say it would take an hour or longer.

16 Q You say you live about eight miles from  
17 Cynthiana?

18 A Yes.

19 Q Okay. And how far is the travel time to  
20 Cynthiana?

21 A Well, 10 or 15 minutes.

22 Q How long have you--you stated you built your  
23 house about 20 years ago?

24 A Well, I bought, it was partially built and

1           then I bought it from a fellow and finished  
2           building it.

3       Q     Okay. So, you have lived in that location  
4           for the last 20 years?

5       A     Twenty-two years.

6       Q     Since 1977?

7       A     That's right.

8       Q     And what is your occupation?

9       A     I'm retired right now.

10      Q     Your residence, is it a farm or do you do any  
11           farming of any sort?

12      A     No, I just have a little over five acres,  
13           so--

14                   MR. WUETCHER:

15                   I think that's all I've got. Thank you.

16      HEARING OFFICER SHAPIRO:

17           Anything else Mr. Looney?

18      MR. LOONEY:

19           Sir?

20      HEARING OFFICER SHAPIRO:

21           Is there anything else you wanted to add in  
22           response to any of the questions that have been  
23           asked in relation to anything that was asked here  
24           on cross-examination?

1 MR. LOONEY:

2 No.

3 HEARING OFFICER SHAPIRO:

4 Do you have any other witnesses?

5 MR. LOONEY:

6 No.

7 HEARING OFFICER SHAPIRO:

8 Okay. Ms. Mastin, do you want to call your first  
9 witness?

10 MS. MASTIN:

11 Yes, thank you. I would like to call Danny  
12 Northcutt, he is the Manager of the Harrison  
13 County Water Association.

14 (WITNESS DULY SWORN)

15

16 The witness, DANNY NORTH CUTT, having first been  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MASTIN:

20 Q Mr. Northcutt, would you state for the record how  
21 long you have been Manager of Harrison County  
22 Water Association?

23 A Approximately 15 years.

24 Q And would you explain to Mr. Looney and the

1 Commission why the water towers were closed?  
2 A Okay. Due to the drought everyone that is on our  
3 system that is a customer that we have a contract  
4 with to supply water was using more water, and  
5 especially on weekends. The children were all  
6 home, the parents were all home, so the demand was  
7 greater at this period of time. I brought some  
8 handouts to show, if anyone is interested, the  
9 consumption of our truck loading stations as they  
10 went up through the months of April, May, June and  
11 July, they doubled. Some of them went almost two  
12 and a half times the amount of water because as  
13 our customers were using more water on the  
14 weekends, so were all the customers that hauled  
15 with their trucks. And the reason they were not  
16 counted as customers, I mean, they are customers  
17 to a certain extent, but they are not customers to  
18 the fact that we have a contract with them. We  
19 had to cut down our truck loading stations because  
20 on weekends when they were not working they were  
21 emptying our water towers.

22 HEARING OFFICER SHAPIRO:

23 You say you have a contract with  
24 customers, are you talking about the

1 customers who receive water through the  
2 mains?

3 A Through the mains with water meters on their  
4 houses.

5 HEARING OFFICER SHAPIRO:

6 The normal residential, commercial  
7 customers?

8 A Right. They sign a water users agreement,  
9 which is a contract with us.

10 HEARING OFFICER SHAPIRO:

11 And the people who go to the bulk  
12 loading stations, they just drive up and  
13 they come from anywhere?

14 A Right. They may get a load this week, and  
15 they may not get another load for three  
16 months.

17 HEARING OFFICER SHAPIRO:

18 But you don't have any agreement with  
19 any of those people; is that what you  
20 are saying?

21 A No, sir.

22 HEARING OFFICER SHAPIRO:

23 Okay.

24 A On the two previous weekends before we closed our

1 truck loading stations the water towers, which are  
2 90 and 100 feet tall, got down in the 30s. And at  
3 that point the pressure on our water mains were at  
4 the point where we were going to have to put out a  
5 boil water alert. And some of our water towers  
6 have approximately 400 to 450 houses on that  
7 system. If it had gotten to the point where we  
8 had 30 pounds or less pressure on our water mains,  
9 then we would have had to put out full boil water  
10 alert to the entire system at that water tower  
11 location. So, we closed our truck loading  
12 stations to let our system stabilize and at the  
13 point where it stabilized and the water towers  
14 were staying full, then we reopened the truck  
15 loading stations through the week. And this was a  
16 temporary thing due to the drought. Once the  
17 drought is over then we will open them back up  
18 seven days a week.

19 MS. MASTIN:

20 Your Honor, may I approach the witness?

21 HEARING OFFICER SHAPIRO:

22 (Nodded head indicating yes.)

23 MS. MASTIN:

24 Here I have an exhibit from the--that

1 shows the gallons that were consumed  
2 each month from the truck loading  
3 stations, how it went up and down. And  
4 I'd like to have this--

5 HEARING OFFICER SHAPIRO:

6 Have you shown this to Mr. Wuetcher?

7 MS. MASTIN:

8 I'm sorry.

9 Q Mr. Northcutt, what did you mean when you said  
10 that the tower went down to 30?

11 A Well, the towers are 100 feet tall and as the  
12 truck loads, that's the customers and the  
13 truck loaders, pulled the water out of it the  
14 100 feet of water dropped down to 30 feet of  
15 water. So, basically, at the foot of the  
16 water tower we were down to about 20 pounds  
17 of pressure. The--Mr. Looney made the  
18 statement that it takes an hour to put the  
19 water back in, that is correct. Our pumps  
20 produce about 125 gallons per minute and with  
21 the consumption of 400 houses it takes about  
22 an hour to overcome the consumption to put  
23 the 1,000 gallons of water back in. What the  
24 public doesn't realize is that we have 200 or

1           300 trucks out there pulling water out of  
2           those water towers at the same time, not the  
3           same time, at four different locations and  
4           they could pull a 1,000 gallons of water out  
5           of that water tower in ten minutes. Well, in  
6           ten minutes six trucks pull up there, they  
7           pull 6,000 gallon out of that water tower and  
8           we can only put a foot back at a time with  
9           our usual consumption. So, what they were  
10          doing, they were pulling out five times more  
11          water than we could put back. And if we had  
12          not shut down the truck loading stations when  
13          we did, the tanks would have been empty, we  
14          would have had several thousand people out of  
15          water.

16                   MS. MASTIN:

17                           May I share this with you, Your Honor,  
18                           this exhibit?

19                   HEARING OFFICER SHAPIRO:

20                           Well, are you going to have him identify  
21                           it?

22                   MS. MASTIN:

23                           Yes.

24    Q           Would you identify this document please?

1 A This is a--

2 HEARING OFFICER SHAPIRO:

3 Before you do that, let's mark this as  
4 Defendant's Exhibit 1 for identification  
5 purposes. Okay, go ahead.

6 A This is a monthly statement that we keep on  
7 each individual truck loading station. It  
8 shows the gallons, the bill, the date we  
9 reimbursed the operator for taking care of  
10 it. And the very first one is the Northern  
11 Harrison County Fire Department, which is at  
12 the City of Berry. Their consumption went  
13 from--in March it was 132,900 gallons, April  
14 it went up to 163,200 gallons, May it went up  
15 to 300,900 gallons, June it went to 376,700  
16 gallons, July it went to 426,000 gallons, and  
17 the June and July readings were after we went  
18 to a three day week, or four day week,  
19 actually it is a four day week. But we have  
20 to close them during our work hours--open  
21 them during our work hours so it does cut the  
22 time down a little bit. This demand through  
23 the week does not hurt us as bad as it did on  
24 the weekends. Our towers have been staying

1 full on weekends, our system has stabilized  
2 and it is working real well.

3 Q When did you prepare this exhibit Mr.  
4 Northcutt?

5 A It is always on file.

6 Q You prepared it--you took it today to bring  
7 today; is that correct?

8 A Yes, I just stapled them together.

9 MS. MASTIN:

10 I'd like to have this admitted as  
11 Exhibit 1 for the Defendant, Your Honor.

12 HEARING OFFICER SHAPIRO:

13 So ordered.

14 (EXHIBIT SO MARKED: Defendant Exhibit No. 1)

15 Q Mr. Northcutt, how--Mr. Looney testified that it  
16 was 20--15 minutes to Cynthiana and 15 minutes  
17 back. Is there a truck loading station in  
18 Cynthiana?

19 A Yes, ma'am.

20 Q And it is available seven days a week; is  
21 that correct?

22 A 24 hours a day.

23 MS. MASTIN:

24 I don't have anything, Your Honor.

1 HEARING OFFICER SHAPIRO:

2 Is that one of the Water Association's?

3 A No, it belongs to the City of Cynthiana.

4 HEARING OFFICER SHAPIRO:

5 Mr. Wuetcher?

6

7

CROSS EXAMINATION

8 BY MR. WUETCHER:

9 Q Good morning Mr. Northcutt.

10 A Good morning.

11 Q Let me start out by just asking a couple of  
12 basic questions. You say you have four truck  
13 loading stations?

14 A Yes, sir.

15 MR. LOONEY:

16 Four.

17 Q And those are located, I take it, throughout  
18 the Harrison County service area?

19 A Yes, sir.

20 Q Okay. You had mentioned the one that is  
21 located near the North Harrison County Fire  
22 Department or is operated by them in Berry.  
23 Where are the other three located?

24 A Okay. One of them is at the village of

1 Sunrise, one of them is at the village of  
2 Buena Vista, the other one is at Renaker,  
3 it's a small community.

4 Q Okay. You will have to bear with me. Can  
5 you tell me as far as what quadrant of  
6 Harrison County, where would Sunrise be?

7 A Okay. That would be in the northeast.

8 Q Okay. And Buena Vista?

9 A That would be in the east.

10 Q And Renaker?

11 A West.

12 Q And the truck loading station in Berry would  
13 be located where?

14 A North.

15 Q North, okay. And prior to the action taken by the  
16 Water Association to reduce the hours of the truck  
17 loading stations, what were the normal operating  
18 hours for them?

19 A Twenty-four hours a day, seven days a week.

20 Q Were all the truck loading stations limited  
21 in their hours of operation?

22 A Yes, sir.

23 Q What is the--as far as the percentage of  
24 Harrison County's--the Water Association's

1 water usage, what percentage of sales comes  
2 from the truck loading stations? If you  
3 don't know, that is fine.

4 A That would be a tough one, you'd have to do  
5 that one on a calculator.

6 Q Okay. Do you have a ballpark estimate?

7 A Well, we are running about 30 million a month  
8 and this is not--we are not selling a million  
9 through these, so I don't know what that  
10 would be.

11 Q Well, the figures you gave before when you  
12 read out the figures for Berry, those were  
13 in--for monthly figures, right?

14 A Yes, sir.

15 Q Okay. So, are we talking somewhere in the  
16 neighborhood or 5% to 10% or lower than that?

17 A I would say less than 10%.

18 Q Okay. Harrison County purchases its water from  
19 the City of Cynthiana?

20 A Yes, sir.

21 Q Has the City of Cynthiana imposed any  
22 restrictions or reductions on the amount of  
23 water that Harrison County can take?

24 A No, sir.

1 Q Do you know if the Harrison County Fiscal  
2 Court has imposed any type of water  
3 restrictions on county residents as far as  
4 prohibitions or fines for watering yards,  
5 things of that nature?

6 A No, sir.

7 Q Has the Water Association made any requests to the  
8 County Judge or the county Fiscal Court to impose  
9 restrictions?

10 A No.

11 Q Has the City of Cynthiana imposed any  
12 restrictions on its users?

13 A Well, as a whole, we have asked people to  
14 conserve, not water yards and flowers and wash  
15 their vehicles but, other than that, there is no  
16 restrictions as far as a fine if they do it, it is  
17 just a mandatory--I mean, a--

18 Q You asked them for a voluntary cut back?

19 A Voluntary.

20 Q Do you know what drought phase Harrison  
21 County is in?

22 A Three.

23 Q Drought phase three. Aside from the  
24 restrictions you have placed on the

1 operations of the water--for the truck  
2 hauling units--has the Water Association made  
3 any other changes in its operations to meet  
4 increased demand from--as caused by the  
5 drought?

6 A No, sir.

7 Q I'm trying to make sure I understand the--  
8 from the Water Association's view point, the  
9 problem is that during the weekends there are  
10 a larger number of customers at home and so  
11 their usage is increasing?

12 A Correct.

13 Q And that places a greater demand on the  
14 system?

15 A Correct.

16 Q Do you all read your or take a daily  
17 measurement of your water consumption?

18 A Yes, sir.

19 Q And that is--your records support that to  
20 show that there is an increase?

21 A Yes, sir.

22 Q Can you give me an idea as to how much the  
23 difference is on the weekends as opposed to a  
24 normal work day?

1 A I don't have any of those records with me,  
2 but it is probably a 100,000 gallons a day  
3 difference, in the ballpark.

4 Q Okay, And give me a little bit better point  
5 of measurement, 100,000 gallons would be what  
6 in terms of increase over a day?

7 A Okay. We, basically, the last two weeks we  
8 have been running about 900,000 a day. And  
9 it will jump up to a million gallons--

10 Q So, you are using--

11 A --on weekends.

12 Q So, you are using 10% to 12% more each  
13 weekend day?

14 A Yes, sir. Plus that was the day that the  
15 farmers would all haul their water also, was  
16 the weekends, or anyone else that was working  
17 through the week they would haul them on the  
18 weekends.

19 Q Okay. Now, Mr. Looney has filed a complaint  
20 with the Commission, he is the only one that  
21 has filed a complaint, but would I be correct  
22 in assuming that you have gotten other  
23 complaints?

24 A Yes, sir.

1 Q How many complaints has the Water Association  
2 gotten?

3 A I was trying to think who all, half a dozen,  
4 maybe.

5 Q Recognizing that you don't have a contract  
6 with the water haulers--people that get their  
7 water from the Water Association through the  
8 hauling stations--but can you give me an  
9 estimate as to how many people you feel in  
10 your all's service territory are getting  
11 their water from the Water Association  
12 through the hauling stations?

13 A I would say probably in 200 to 300 range.

14 Q What do you base our estimate on, just--

15 A Just the ones that I know that haul from the  
16 different locations?

17 MR. WUETCHER:

18 I think that's all I have, if I could  
19 just see the exhibit for one moment.

20 Q The meter usage that is recorded on Defendant's  
21 Exhibit 1, do you take this as a--is there a  
22 requirement in the state law for you to record the  
23 meter usage each month?

24 A Yes. Well, we read the meters each month and

1 we have--there are private individuals that  
2 take care of--that man these, and we read the  
3 meters and bill the individual for the water  
4 that goes through their truck loading  
5 station.

6 Q Okay. And this is an operating procedure that you  
7 follow each month so that at the end of the month  
8 you go in and read the meters just to insure you  
9 have got a reading as to how much water is coming  
10 from those stations?

11 A Correct.

12 Q Has the Water Association done any type of  
13 planning or review to determine how this  
14 situation could be avoided in the future?

15 A Yes, sir, we have our engineers, PEH  
16 Engineers in Louisville, is looking into  
17 upgrading our system.

18 Q Have they reported back to the Water  
19 Association yet on any recommendations or is  
20 that still an ongoing review?

21 A It's still ongoing.

22 Q Do you have a--have they given you an  
23 estimate as to when they will be making  
24 recommendations to you?

1 A Not that I know of.

2 Q Do you know if it will be before the end of  
3 the year?

4 A We hope so.

5 Q Does the Water Association have a water shortage  
6 response plan?

7 A Yes, sir.

8 Q Okay. Has that--have you all placed that  
9 into effect?

10 A No, not yet.

11 Q When you made the announcement that the  
12 operation of the water hauling stations was  
13 going to be curtailed, what--was there any  
14 advance notice of that and how was notice  
15 given to the public?

16 A I don't believe there was advance notice, it  
17 was an emergency.

18 Q And was the notice--some type of notice after  
19 the plants were closed notice was given to  
20 what, the local newspaper?

21 A Yes, sir, and they were put on the buildings,  
22 the truck loading stations themselves.

23 MR. WUETCHER:

24 I think that's all we have. Thank you.

1 HEARING OFFICER SHAPIRO:

2 Mr. Northcutt, let me just ask you something, I  
3 just want to clarify something in my own mind, but  
4 as I understand the problem is really not because  
5 of the drought directly, but the problem that you  
6 have is the increased demand upon your bulk  
7 loading stations?

8 A Correct.

9 HEARING OFFICER SHAPIRO:

10 And because of the increased demand the water was  
11 being withdrawn faster than it could be replaced  
12 in the towers?

13 A Absolutely.

14 HEARING OFFICER SHAPIRO:

15 And as a consequence the towers were being drawn  
16 down to a level below which you could not maintain  
17 30 pounds per square inch for your customers and  
18 you were also approaching a point where you would  
19 have to issue a boil water advisory because of the  
20 low level of water?

21 A Yes, sir.

22 HEARING OFFICER SHAPIRO:

23 And that is the reason why you felt it was  
24 necessary then to institute shorter hours in order

1 to--particularly on the weekends--to close them on  
2 the weekends in order to allow the towers to  
3 recover?

4 A Yes, sir.

5 HEARING OFFICER SHAPIRO:

6 Thank you Mr. Northcutt. Any redirect?

7 MS. MASTIN:

8 Yes, Your Honor, please.

9

10 REDIRECT EXAMINATION

11 BY MS. MASTIN:

12 Q Mr. Northcutt, would you explain why the water  
13 stations, water loading stations, were established  
14 to begin with?

15 A They were just put in as a convenience. The  
16 City of Cynthiana has always had a truck  
17 loading station there and the people would go  
18 in and line up to get their water. And the  
19 Harrison County Water Association decided to  
20 start putting in the truck loading stations  
21 in the surrounding areas to help the  
22 customers--the farmers be a little bit closer  
23 to their homes and so the line of traffic  
24 wouldn't be backed up as far to get the truck

1 load of water.

2 Q There is nothing in our tariff that requires  
3 us to have water loading stations, is there?

4 A No, ma'am, not that I know of.

5 Q And when you are in the office there at the  
6 Harrison County Water Association you can  
7 monitor every tower in Harrison County; is  
8 that correct?

9 A Yes, ma'am.

10 Q And you can see the level dropping even  
11 without reading; is that correct?

12 A Yes, ma'am.

13 MS. MASTIN:

14 I don't have anything else.

15 MR. WUETCHER:

16 I have a couple more questions.

17 HEARING OFFICER SHAPIRO:

18 Let me ask Mr. Looney if he has some questions?

19 MR. LOONEY:

20 Yes, I have some questions.

21 HEARING OFFICER SHAPIRO:

22 Now, this is only in response to what has been  
23 brought up.

24

1 MR. LOONEY:

2 That's right.

3

4

CROSS EXAMINATION

5 BY MR. LOONEY:

6 Q Okay. You say you shut this water station down  
7 for a week.

8 A It was at least a week, yes, sir.

9 Q Okay. They were shut down from June 11 to  
10 June--what I'm trying to say is they were  
11 shut down 13 days.

12 HEARING OFFICER SHAPIRO:

13 Is this--Mr. Looney, let me caution you  
14 about something.

15 MR. LOONEY:

16 Yes, sir.

17 HEARING OFFICER SHAPIRO:

18 You need to ask questions, I mean, this  
19 is not the time for you to testify.

20 MR. LOONEY:

21 Okay.

22 HEARING OFFICER SHAPIRO:

23 You can ask him questions but you can't  
24 testify in response to what he says.

1 MR. LOONEY:

2 All right.

3 Q Okay. Here is the paper that we got when  
4 they closed the water stations.

5 HEARING OFFICER SHAPIRO:

6 Now, is this a question? Are you going  
7 to ask him a question about something in  
8 the paper?

9 MR. LOONEY:

10 Yes.

11 HEARING OFFICER SHAPIRO:

12 Okay.

13 Q Why did we just get a short notice like this?  
14 This is June 10, on June 11 they were shut  
15 down. Why did we get such a short notice  
16 that they was going to be shut down?

17 A The only thing that I can think of we only  
18 have a weekly paper and that was the only  
19 time we could get it in the paper. The other  
20 thing is we have no idea who our customers  
21 are that haul water. There is no way of  
22 notifying everybody that we were going to  
23 shut them down. We put it in the paper as  
24 quick as we could, we had to close the truck

1 loading stations because our towers were near  
2 empty.

3 Q Did you get federal money or monies from the  
4 federal government?

5 A Yes, sir.

6 HEARING OFFICER SHAPIRO:

7 Are you asking him if he got money from  
8 the--federal money to build these  
9 stations or just in general?

10 MR. LOONEY:

11 Just in general.

12 A We borrow money from the federal government  
13 to put in water mains.

14 Q Grants?

15 A And grants.

16 Q Okay. Now, do you think that you don't--  
17 since you don't call us a customer, do you  
18 think you are doing the people of Harrison  
19 County right, all the people or just some of  
20 the people?

21 A We have a contract with 4,000 people,  
22 customers, in Harrison County to supply them  
23 with adequate water and adequate pressure.  
24 And those are the customers that we have to

1 satisfy with adequate water and adequate  
2 pressure.

3 Q We are not a customer then?

4 A You are a customer but we do not have a  
5 contract with you.

6 Q Do you run water lines in other counties?

7 A Yes, sir.

8 Q You know, I'm not a lawyer and I was expecting one  
9 to be here to help me, you know, from the water  
10 place here, but I'm not too swift on this, you  
11 know. Okay. I just don't understand myself  
12 things, so I'll have to ask you. Is it all right  
13 if I ask you some things?

14 HEARING OFFICER SHAPIRO:

15 Well, you can ask him questions and then  
16 if you have some--if there is something  
17 you want to ask me about the procedure  
18 I'll be glad to try to help you. But I  
19 can't ask the questions for you.

20 MR. LOONEY:

21 No, I don't want you to ask the  
22 questions for me.

23 HEARING OFFICER SHAPIRO:

24 All right, what is it you want to know?

1 MR. LOONEY:

2 How can they use grants and federal  
3 money--

4 HEARING OFFICER SHAPIRO:

5 Well, again, that is something that you  
6 are getting into--you are asking me to--

7 MR. LOONEY:

8 You see, I need to know this.

9 HEARING OFFICER SHAPIRO:

10 Well, you can ask him what they do with  
11 the money they receive and what they--  
12 and then you can make an argument about  
13 it. But I can't tell you--I can't give  
14 you a lesson--

15 MR. LOONEY:

16 Okay, I'll just ask him.

17 Q You use Harrison County grant money or federal  
18 money to put the water lines in surrounding  
19 counties like in Nicholas County where you have  
20 got that little U thing there.

21 A Yes, sir.

22 Q Why did you--I don't know if I can ask it--

23 HEARING OFFICER SHAPIRO:

24 Yes, go ahead.

1 Q Why did you do this?

2 A Okay. Harrison County Water is a private  
3 organization. It has the name Harrison  
4 County but it does not belong to Harrison  
5 County. It is not a Fiscal Court--it is not  
6 under the Fiscal Court, it is not a  
7 governmental body. We are a private  
8 business. We borrowed money from FHA to put  
9 water lines into customers. We are not  
10 Harrison County oriented, we can go in any  
11 county we want to as long as that county does  
12 not protest it. We can supply all of Bourbon  
13 County, all of Nicholas County and all of  
14 Scott County with water if we wish to.

15 Q And you don't want to supply the people that  
16 is on the water stations. Let me ask you  
17 this, do you want to get rid of those water  
18 stations, do you want to eliminate the water  
19 stations?

20 A No, sir, absolutely not. We make as good a  
21 money from truck loading stations as we do  
22 from our other customers as far as a profit.  
23 It is the point that they can pull water out  
24 so fast that we cannot fill our water towers

1 up. Now, the demand from Exhibit 1 shows  
2 that the water supply is dropping back  
3 because of the fall. Everybody has quit  
4 watering their yards and flowers and trees  
5 and whatever, the consumption is going down.  
6 We will probably at some point, unless the  
7 drought gets worse, open them back up seven  
8 days a week. But the federal money that we  
9 borrow, we borrow it and we pay it back, just  
10 like if you would borrow the money from FHA  
11 to build a house and you pay it back.

12 Q But we do get free money, grants?

13 A We do get grant money, yes, sir.

14 MR. LOONEY:

15 Well, I think that is all for right now  
16 for him.

17 HEARING OFFICER SHAPIRO:

18 Mr. Wuetcher?

19 MR. WUETCHER:

20 I've just got a few more.

21

22 RE CROSS EXAMINATION

23 BY MR. WUETCHER:

24 Q Let me start with, you said that hauling stations

1           were established in part to reduce inconvenience  
2           of having to go to Cynthiana to use their hauling  
3           stations. When were the hauling stations  
4           initially established?

5       A     They were put in at different times, probably  
6           in the--the first one was probably  
7           established in 1967. And then they were put  
8           in at different times from then until about--  
9           I guess our last one went in probably five  
10          years ago.

11       Q     Okay. And how long has the Water Association  
12           been in existence?

13       A     Since '65.

14       Q     Did the Water Association receive any instructions  
15           or guidance or suggestions from the Division of  
16           Water to close down those stations as a result of  
17           the demand being placed on the system?

18       A     No, sir.

19       Q     Have you all had--has the Water Association  
20           has any communications with the Division of  
21           Water?

22       A     Yes, sir.

23       Q     It has? Concerning the shut--the closure?  
24           What type of communication was that?

1 A It was telephone. They called, of course  
2 when we shut these down the media had a  
3 feeding frenzy, the television cameras came  
4 down from Channel 27, Channel 18, Channel 36,  
5 picked it all up on the TV and the Division  
6 of Water saw it so they called us and asked  
7 us what was going on. And we explained it to  
8 them and they had no problems with it.

9 Q Do you know who you spoke with at the  
10 Division of Water?

11 A Tom Galbraith.

12 Q Do you know what branch within the Division  
13 of Water that he was with?

14 A No, sir.

15 Q But you have not received any other communication  
16 from the Division of Water concerning the closure  
17 of the--or the reduced operating hours for the  
18 water stations?

19 A They call us every Monday and ask us about  
20 our usage and the truck loading stations.

21 Q Okay. The actual tank--you had mentioned  
22 before there were two storage tanks in  
23 question, one was 100 feet and the other was  
24 90 foot?

- 1 A Yes, sir.
- 2 Q Does that 100 foot to overflow?
- 3 A Yes.
- 4 Q Okay. What is the actual storage capacity of  
5 each tank?
- 6 A About 115,000 gallons.
- 7 Q Each tank has a storage of 115,000 gallons?
- 8 A Well, the 90 foot would probably be about  
9 105.
- 10 Q Okay. And the water hauling stations closed  
11 on--were closed on June 11; is that right?
- 12 A Yes, sir.
- 13 Q Okay. When did they resume operations with the  
14 limited hours of operations?
- 15 A I really can't give you that date, sir.
- 16 Q Well, can you give me--
- 17 A It was on a Monday the following week, so I  
18 guess it was--whatever the 11th fell on, it  
19 was closed for one full week and two week-  
20 ends. So, it could have been--Mr. Looney  
21 says 13 days,--
- 22 Q That's good enough.
- 23 A --it could have possibly been that.
- 24 Q Okay. And whenever--the Water Association is

1 monitoring its daily purchases from the City  
2 of Cynthiana; is that correct?

3 A Yes, sir.

4 Q Could you all provide us with the daily water  
5 purchases from, let's say, June 1 to  
6 September 1 so we have a good picture of what  
7 is going on?

8 A I don't have it with me.

9 Q No, I mean if you could provide them, let's  
10 say, within seven days, would that be  
11 adequate time to--

12 A Yes, sir.

13 Q And if you could also provide us with what your  
14 average daily purchases are so we have a point of  
15 comparison between what normally goes on and what  
16 you have been experiencing during the summer?

17 A I thought that was--you have two different  
18 things there you are wanting?

19 Q Well, no, what I'm looking for is the--

20 A The daily consumption?

21 Q The daily consumption and then if you could  
22 just also give us what, on an annual basis,  
23 what your average daily consumption would be,  
24 what it would be like under normal

1 circumstances?

2 A Okay.

3 Q The pumps to both those water storage tanks,  
4 how much time are they in operation now, are  
5 they pumping around the clock?

6 A Yes, sir. Right now they are running 24  
7 hours a day.

8 Q And how long have they been operating under  
9 that fashion?

10 A Since April.

11 MR. WUETCHER:

12 I think that's all we have. Thank you.

13 HEARING OFFICER SHAPIRO:

14 Thank you Mr. Northcutt.

15 MR. LOONEY:

16 Could I ask one more question?

17 HEARING OFFICER SHAPIRO:

18 Okay, it has to be in relation to something that  
19 was--

20 MR. LOONEY:

21 All right, okay. You asked the--he was asked how  
22 many complaints that he got from the--I sent--

23 HEARING OFFICER SHAPIRO:

24 Well, all right, just go ahead, just ask the

1 question.

2 MR. LOONEY:

3 You say you got eight or ten complaints or  
4 something like that. Well, I don't know how to  
5 put this.

6 HEARING OFFICER SHAPIRO:

7 What is it you want to know?

8 MR. WUETCHER:

9 I think I can ask the question for him.

10 MR. LOONEY:

11 Well, let him.

12 MR. WUETCHER:

13 If I can--if I may.

14 HEARING OFFICER SHAPIRO:

15 Go ahead.

16

17

RE CROSS EXAMINATION

18 BY MR. WUETCHER:

19 Q When Mr. Looney submitted his complaint to the  
20 Commission he attached to it a petition signed by  
21 --this is several pages long of other people who  
22 were also complaining concerning the reduction in  
23 operating hours and the closure of the water  
24 hauling facilities. First, have you seen that

1 petition?

2 A Yes, sir.

3 Q Okay. And does that in any way change your  
4 response to the question I asked you earlier  
5 concerning the number of complaints that you--that  
6 the Water Association received?

7 A Okay. I guess I misunderstood what you were  
8 saying. I was counting his petition as one  
9 complaint.

10 Q Okay.

11 A I mean, personally I have just had eight or  
12 ten people really complain to me personally  
13 about the truck loading stations. I'm sure  
14 there has been--I'm sure all 200 or 300 has  
15 probably complained to someone or each other  
16 at the truck loading stations. I don't know  
17 how many people he had on his list but I'm  
18 sure there is several besides the eight or  
19 ten that has complained to me.

20 MR. WUETCHER:

21 Okay, does that answer your question?

22 MR. LOONEY:

23 (Nodded head indicating yes.)

24 A And we understand it is an inconvenience, you

1 know. It is--but we felt like it was a necessary  
2 inconvenience.

3 HEARING OFFICER SHAPIRO:

4 Okay. Thank you Mr. Northcutt. Any other  
5 witnesses?

6 MS. MASTIN:

7 No, sir, Your Honor.

8 HEARING OFFICER SHAPIRO:

9 Let's take about five minutes and when we come  
10 back we will have closing statements. And the  
11 purpose of closing statements, Mr. Looney, will be  
12 for you to argue why you think the relief you have  
13 asked for should be granted, and Ms. Mastin will  
14 have the opportunity to argue why she thinks it  
15 shouldn't be granted or--and Ms. Mastin will go  
16 first and you will make the last closing  
17 statement. Okay? We will be in recess for five  
18 minutes.

19 (OFF THE RECORD)

20 HEARING OFFICER SHAPIRO:

21 Back on the record. Okay. You want to come on  
22 back up Mr. Looney and--okay, Ms. Mastin.

23 MS. MASTIN:

24 Thank you, Your Honor. I just want to emphasize

1 that the water stations, loading stations, were  
2 put in in the early stages of the Harrison County  
3 Water Association's development, at a time when we  
4 had maybe 500 customers. They were put there as  
5 conveniences, as Mr. Northcutt testified, and our  
6 water usage was not as great then as now. The  
7 drought conditions that we have been under this  
8 year have caused folks who usually would have had  
9 water in their cisterns from rain to have to use  
10 the water loading--the truck loading stations to  
11 get their water supply. That has caused a problem  
12 with our loading stations. And in response to  
13 Mr. Looney's question about water lines being in  
14 other counties, in order for us to get funding  
15 from FHA we have to provide a plan as to where we  
16 are going with--where the greatest need is. And  
17 sometimes, for instance, in Bourbon County there  
18 was a grant that they were given. And they  
19 approached us about coming into that county, so we  
20 had to provide the water to that county as part of  
21 our--as part of FMHA's requirements. Right at the  
22 present time we have two applications in and are  
23 putting in two new phases of water services to  
24 customers in Harrison County. And I hope that

1 will respond adequately to Mr. Looney's complaint.

2 HEARING OFFICER SHAPIRO:

3 Mr. Looney?

4 MR. LOONEY:

5 Well, to me, it looks like when they put those  
6 water stations in they were wanting to make a  
7 profit off the people of the county. All right.  
8 Now, they have got several people on the water  
9 lines, they turn around and say, hey, well, we  
10 don't need you all. We have people on the water  
11 lines and you are secondary because we was turned  
12 off without water for 13 days. And you know some  
13 of those people just have a 1,000 gallon cistern,  
14 or 2,000 gallons, or 8,000, 10,000, that is a  
15 hardship. They created this theirselves, they put  
16 those water stations out there, we got--we depend  
17 on those water stations, then they turn around and  
18 say, whoa, hey, we are just going to cut you off  
19 for 13 days or we are going to just divvy it out  
20 to you. To me, that is not right. And I've got a  
21 whole lot of other peoples that thinks that is not  
22 right, too, because a lot of people today put  
23 tobacco up, has to work, or I would have had some  
24 people with me. And it is not right to lull a

1           fellow into this and then pschewww, whip it to  
2           him. Now, those people in town, out in the  
3           county, my neighbors that are on the water line,  
4           they are out there watering their garden. The  
5           more water they use the cheaper their bill is.  
6           You know what I'm talking about, they use a 1,000,  
7           2,000, 10,000, the bill keeps going down, my bill  
8           stays the same. It is \$8.50 for a thousand  
9           gallons, besides my time, my truck, my gasoline.  
10          It is not my fault they don't run these water  
11          lines to the people's houses, all right. There is  
12          one lady ain't here, in the newspaper, said if  
13          they want me to I can go back and show you, she  
14          said we built a house and they said the water line  
15          will be there in two years. She says it has been  
16          five years and they tell us another two years.  
17          You know, that is kind of tough, you know. It's  
18          not my fault I don't have the water line, but they  
19          lulled us into depending on these and then they  
20          shut them down for 13 days. And I don't  
21          understand it. And if you try to go without water  
22          for that long and you have got a family, hey, it  
23          is tough. You will either have to go to Cynthiana  
24          to the city water plant or go to Falmouth. And

1           that is a long way to Falmouth, brother. And it  
2           is, you know, you go to the city water plant,  
3           trucks there, as the fellow said, they are backed  
4           up and you might be there for an hour, two hours,  
5           just according to how much traffic they have. Do  
6           you understand what I'm trying to say?

7           HEARING OFFICER SHAPIRO:

8           Do I understand what you are trying to say?

9           MR. LOONEY:

10          Yes.

11          HEARING OFFICER SHAPIRO:

12          I understand your problem.

13          MR. LOONEY:

14          Okay. Well, that's about all I have to say right  
15          now.

16          HEARING OFFICER SHAPIRO:

17          Okay. Thank you Mr. Looney. That will conclude  
18          the hearing then. You've been ask to furnish some  
19          additional information and I believe you said you  
20          could furnish it within about a week; is that  
21          correct?

22          MS. MASTIN:

23          Yes.

24

1 HEARING OFFICER SHAPIRO:

2 Okay. Once that information has been furnished  
3 and the transcript has been prepared and filed,  
4 then this matter will be submitted for a decision  
5 by the Commission and the Commission will take the  
6 matter under review. If nothing further, the  
7 hearing is adjourned. Thank you.

8 (OFF THE RECORD)

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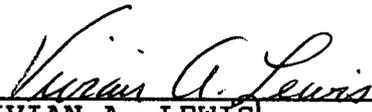
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STATE OF KENTUCKY )  
COUNTY OF FRANKLIN)

I, VIVIAN A. LEWIS, a Notary Public in and for the state and county aforesaid, do hereby certify that the foregoing testimony was taken by me at the time and place and for the purpose previously stated in the caption; that the witnesses were duly sworn before giving testimony; that said testimony was first taken down in shorthand by me and later transcribed, under my direction, and that the foregoing is, to the best of my ability, a true, correct and complete record of all testimony in the above styled cause of action.

WITNESS my hand and seal of office at Frankfort, Kentucky, on this the 4th day of October, 1996.

  
VIVIAN A. LEWIS  
Notary Public  
Kentucky State-at-Large

My commission expires: 7-23-01

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1999

No. Harrison Fire Department  
 % Don Adams  
 P.O. Box 218  
 Berry, Ky 41003

Account # 100458

Location 11-3690



Month	Gallons	Bill	Commission	DATE PAyed + Check#
JAN.	184,000	1012. <u>00</u>	119. <u>60</u>	1-6-99 # 18683
Feb	185,700	1021. <u>35</u>	120. <u>71</u>	2-2-99 # 18772
MARCH	132,900	730. <u>95</u>	86. <u>39</u>	3-4-99 # 18871
April	163,200	897. <u>60</u>	106. <u>08</u>	4-2-99 # 18998
MAY	300,900	1654. <u>95</u>	195. <u>59</u>	5-6-99 # 19155
JUNE	376,700	2071. <u>85</u>	244. <u>86</u>	6-4-99 # 19283
July	426,000	2343. <u>00</u>	276. <u>90</u>	7-1-99 # 19431
Aug.	225,200	1238. <u>60</u>	146. <u>38</u>	8-3-99 # 19596
Sept.	157,400	865. <u>70</u>	102. <u>31</u>	9-8-99 # 19730
Oct.				
Nov.				
Dec.				
Total				

Glenn Doolin  
Rt. #2  
Cynthiana, KY 41031

Account #102907

Location 16-2820

1999

Sunrise Truck Loading Station

#6-5450

Month	Gallons	Bill	Commission	Date Payed + Check #
JAN.	104,300	573.65	67.80	1-6-99 #18686
Feb	94,700	520.85	61.56	2-2-99 #18775
MARCH	51,530	283.42	33.49	3-4-99 #18874
April	78,470	431.59	51.01	4-2-99 #19001
MAY	165,600	910.80	107.64	5-6-99 #19159
JUNE	161,600	888.80	105.04	6-4-99 #19286
July	376,800	2072.40	244.92	7-1-99 #19433
Aug.	150,500	827.75	97.83	8-3-99 #19598
SEPT.	213,100	1172.05	138.52	9-8-99 #19732
Oct.				
Nov.				
Dec.				
tal				

1999

Forrest Million  
Rt. #6  
Cynthiana, KY 41031

Account #101616  
Location 3-2930

Renaker Truck Loading Station

Month	GALLONS	Bill	Commission	DATE Payed + Check #
JAN.	102,276	562.52	66.48	1-6-99 #18684
FEB	74,004	407.02	48.10	2-2-99 #18773
MARCH	61,700	339.35	40.11	3-4-99 #18872
April	77,182	424.50	50.17	4-2-99 #18999
MAY	112,769	620.23	73.30	5-6-99 #19186
JUNE	114,667	630.67	74.53	6-4-99 #19284
July	143,909	791.50	93.54	7-1-99 Cr #19458
Aug.	103,745	570.60	67.43	8-3-99 Cr #19597
Sept.	108,546	597.00	70.55	9-8-99 Cr #19731
Oct.				
Nov.				
Dec.				
Total				

Don Marsh  
Rt. #3 Box 244  
Cynthiana, KY 41031

Account # 103680  
Location 17-6201  
7-5540

1999

Buena Vista Truck Loading Station

Month	Gallons	Bill	Commission	Date Payed + Check #
JAN.	106,900	587.95	69.49	1-6-99 # 18687
Feb	111,000	610.50	72.15	2-2-99 # 18776
MARCH	76,800	422.40	49.92	3-4-99 # 18875
April	75,500	415.25	49.08	4-2-99 # 19002
MAY	106,200	584.10	69.03	5-6-99 # 19160
JUNE	167,300	920.15	108.75	6-4-99 # 19287
July	194,200	1068.10	126.23	7-1-99 # 19430
Aug.	137,000	753.50	89.05	8-3-99 # 19599
Sept.	157,200	864.60	102.18	9-8-99 Ck # 19733
Oct.				
Nov.				
Dec.				
Total				